

United States  
Circuit Court of Appeals

For the Ninth Circuit.

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Transcript of Record.  
(IN TWO VOLUMES.)

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CHARLES H. MOYER, as Trustee for the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, CHARLES H. MOYER, C. E. MAHONEY and ERNEST MILLS as Members of the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,

Appellants,

vs.

THE BUTTE MINERS' UNION, a Corporation,  
Appellee.

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VOLUME I.  
(Pages 1 to 320, Inclusive.)

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Upon Appeal from the United States District Court for the District of Montana.

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Filed

DEC 6 - 1916



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Circuit Court of Appeals

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CHARLES H. MOYER, as Trustee for the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, CHARLES H. MOYER, C. E. MAHONEY and ERNEST MILLS as Members of the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,  
Appellants,  
vs.  
THE BUTTE MINERS' UNION, a Corporation,  
Appellee.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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## **Names and Addresses of Attorneys of Record.**

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Butte, Montana.

Mr. O. N. HILTON, Symes Building, Denver,  
Colorado.

Mr. E. P. Kelly, Phoenix Building, Butte, Montana.  
Solicitors and of Counsel for Complainants  
and Appellants.

Mr. PETER BREEN, Silver Bow Block, Butte,  
Montana.

Mr. A. C. McDANIEL, Silver Bow Block, Butte,  
Montana.

Solicitors and of Counsel for Defendant and  
Appellee.

*In the District Court of the United States, in and for  
the District of Montana.*

**EQUITY NO. 33.**

CHARLES H. MOYER, as Trustee for the Western  
Federation of Miners, a Voluntary Unincorpor-  
ated Association of Persons With Its Head-  
quarters in the City and County of Denver, State  
of Colorado, CHARLES H. MOYER, C. E.  
MAHONEY and ERNEST MILLS, as Mem-  
bers of the Western Federation of Miners a  
Voluntary Unincorporated Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, Colorado,

Plaintiffs,

vs.

THE BUTTE MINERS' UNION, a Corporation,  
Defendant.

BE IT REMEMBERED, That on the 15th day of September, 1915, a Bill of Complaint, was filed herein, which said bill is in the words and figures as follows, to wit: [1\*]

*In the District Court of the United States of America for the District of Montana.*

CHARLES H. MOYER, as Trustee for the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, CHARLES H. MOYER, C. E. MAHONEY, EARNEST MILLS, THOMAS OWEN, J. E. COMMINS, CHARLES POGORELIC, YANCI TERZICH, J. C. WILLIAMS, C. E. BRIGHT, CHARLES DETRICH, WILLIAM BURNS, J. A. HERNDON, THOMAS McMANUS, E. G. LOCK, JAMES HANLEY, W. T. QUINN, PHILLIP RYAN, WILLIAM STANLICK, GUY E. MILLER, RUFUS BLAYLOCK, THOMAS GORMAN, EMANUEL DE MIO, L. S. SEXTON, SAMUEL W. MONROE, WILLIAM DAVIDSON, FRANK PHILLIPS, JAMES ROBERTS, JOSEPH GORMAN, and M. C. LEAKE as Members of the Western Federation of Miners a Voluntary Unincorporated Association of Per-

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\*Page-number appearing at foot of page of original certified Transcript of Record.

sons With Its Headquarters in the City and  
County of Denver, Colorado,

Plaintiffs,

vs.

THE BUTTE MINERS' UNION, a Corporation,  
Defendant.

**Bill of Complaint.**

To the Honorable Judge of the District Court of the  
United States for the District of Montana:

Charles H. Moyer, C. E. Mahoney, Earnest Mills,  
M. C. Leake, Thomas Owen, J. E. Commins and  
Charles Pogorelic, citizens and residents of the State  
of Colorado, and Yanco Terzich and J. C. Williams  
citizens and residents of the State of California, and  
C. E. Bright, and Charles Detrich, citizens and  
residents of the State of Arizona, and William  
Burns, J. A. Herdon and Thomas McManus, citizens  
and residents of the State of Nevada and E. G. Lock,  
James Hanley and W. T. Quinn, citizens and resi-  
dents of the State of Utah, and Phillip Ryan a citi-  
zen and resident of the State of Idaho, and William  
Stanlick a citizen and resident of the State of New  
Jersey, and Guy E. Miller and Rufus Blaylock citi-  
zens and residents of the State of Missouri, and  
Thomas Gorman a citizen and resident of the State  
of So. Dakota, and Emanuel De Mio, a citizen and  
resident of the State of Wisconsin, and L. S. Sexton  
a citizen and resident of the State of Kentucky, and  
Samuel W. Monroe, a citizen and resident of the  
State of New Mexico, and William Davidson, Frank  
Phillips and James Roberts citizens and residents of

British Columbia a part of the British Empire, and Joseph Gorman a citizen and resident of Ontario in the Dominion of Canada a part of the British Empire, bring this bill against The Butte Miners' Union, a Corporation, resident within the State of Montana, and a Montana corporation, and for cause of Complaint against said defendant, your Orators complain and say:

I. That the defendant, The Butte Miners' Union, is now, and was at all times mentioned herein a corporation organized and existing under the laws of the State of Montana. [2]

II. That the Western Federation of Miners is now and at all times herein mentioned was a voluntary unincorporated association of persons engaged in the work of mining, milling, smelting, and reduction of ores and minerals, and in and about mines, mills, and smelters in the United States of America, the Dominion of Canada and British Columbia, and is divided into local unions in the different states of the United States of America, and in the Dominion of Canada, and in British Columbia, and has its headquarters in the City and County of Denver, State of Colorado, one of the United States of America; and that the membership of said Western Federation of Miners is composed of several thousand persons, engaged in working in and about mines, mills, and smelters, and in and about the mining, milling, smelting, and reduction of ores and minerals,

III. That the members of the Western Federation of Miners before mentioned are very numerous being several thousand in number, and are residents

and citizens of several different states of the United States, and of the Dominion of Canada, a part of the British Empire, and of British Columbia a part of the British Empire; and that it is impracticable to bring them all before the Court as plaintiffs herein in person, and that the persons named herein as plaintiffs are members of said Western Federation of Miners, and bring this suit for the benefit of all the members of the Western Federation of Miners.

IV. That the plaintiffs herein named are citizens and residents as follows:

Charles H. Moyer, C. E. Mahoney, Earnest Mills, M. C. Leake, Thomas Owen, J. E. Commins and Charles Pogorelic are citizens and residents of the State of Colorado; That Yanco Terzieh and J. C. Williams are citizens and residents of the State of California; That C. E. Bright, and Charles Detrich are citizens and residents of the State of Arizona; That William Burns, J. A. Herndon and Thomas McManus are citizens and residents of the State of Nevada; That E. G. Lock, James Hanley and W. T. Quinn are citizens and residents of the State of Utah; That Phillip Ryan is a citizen and resident of the State of Idaho; That William Stanlick is a citizen and resident of the State of New Jersey; That Guy E. Miller and Rufus Blaylock are citizens and residents of the State of Missouri; That [3] Thomas Gorman is a citizen and resident of the State of So. Dakota; That Emanuel De Mio, is a citizen and resident of the State of Wisconsin; That L. S. Sexton is a citizen and resident of the State of Kentucky; That Samuel W. Monroe is a citizen and resident of



the State of New Mexico; That William Davidson, Frank Phillips and James Roberts are citizens and residents of British Columbia a part of the British Empire; That Joseph Gorman is a citizen and resident of Ontario in the Dominion of Canada a part of the British Empire.

V. That on or about the 22d day of September, A. D. 1914, the defendant corporation, The Butte Miners' Union, made application to the Western Federation of Miners for a charter, a copy of which said application is as follows:

“To the President of the Western Federation of Miners, Denham Building, Denver, Colorado.

The Butte Miners' Union, a corporation, organized and existing under and by authority of the laws of the State of Montana, at a regular meeting held at the headquarters of the said corporation, 217 North Main St., Butte, Montana, on the 22d day of September, 1914, by a majority vote of its membership present at said meeting passed a resolution directing and instructing its president, secretary and board of directors or trustees, to apply to the Western Federation of Miners for a re-issuance of a charter to the said corporation to take the place of its first charter recently lost or destroyed, and said resolution empowered and authorized its aforesaid officers to take all necessary steps and do all necessary things in order to procure said charter.

Now, therefore, we, Frank O'Connor, President, Pat O'Neill, Secretary, and Mike A. Sullivan, James Walsh, James Ryan, Frank Martin, Pat Quigley, constituting the Board of Directors or Trustees of

the said corporation, pursuant to the said resolution and by authority thereof, hereby make application to you for the re-issuance of a charter for a local union to be issued to the said corporation, which shall be known as the Butte Miners' Union No. 1, Western Federation of Miners, which shall take the place of its first charter recently lost or destroyed.

It is hereby agreed in the acceptance of the said charter that the aforesaid corporation shall conform to all of its provisions and that the same are fully understood, and to the constitution, by-laws, rules and regulations of the Western Federation of Miners.

IN TESTIMONY WHEREOF, the said corporation has caused this application to be signed by its President, Secretary and Board of Directors or Trustees, and its corporate seal to be attached thereto this 22d day of September, 1914. [4]

THE BUTTE MINERS' UNION, a Corporation,

FRANK O'CONNOR, President,

PAT O'NEILL, Secretary,

M. A. SULLIVAN,

JAMES WALSH,

JAS. J. RYAN,

Board of Directors or Trustees."

That thereafter and in accordance with said application, the Western Federation of Miners by and through its president and secretary issued to said corporation a charter, a copy of which said charter is as follows:

“WESTERN FEDERATION OF MINERS’  
CHARTER.

KNOW ALL MEN BY THESE PRESENTS, that acting under the authority vested in us by the Laws of the above-named organization, we, the undersigned do hereby grant this Charter to the Butte Miners’ Union, a corporation, to be hereafter known and designated as the BUTTE MINERS’ UNION No. 1, WESTERN FEDERATION OF MINERS,

TO BE HELD BY THEM AND THEIR SUCCESSORS, and the aforesaid Union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership, any person or persons lawfully proposed and elected in accordance with the constitution, rules and regulations of the Western Federation of Miners. It is hereby agreed in the acceptance of this Charter that the aforesaid union shall conform to the constitution, rules and regulations, and in default thereof, this charter may be revoked and the union suspended from all rights, and benefits, according to the laws of the Western Federation of Miners, and further, it is agreed that should the aforesaid union withdraw or be dissolved, suspended or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners.

In Consideration of the due and faithful performance of the foregoing stipulations, the Western Federation of Miners do bind themselves to sustain said union in the exercise of all rights, privileges and benefits, as a local union under its protection.



IN WITNESS WHEREOF, we have subscribed our names and affixed our Seal of the Western Federation of Miners this Third day of October, 1914.

The Butte Miners' Union, organized June 13, 1878.  
Original W. F. M. Charter dated May 15, 1893.

CHAS. H. MOYER,  
President.

ERNEST MILLS,  
Secretary-Treasurer."

And that said corporation accepted said charter, and worked under the same until on or about the 15th day of June, A. D. 1915. That the contract evidenced by said application and charter was made in the State of Montana.

VI. That on or about said 15th day of June, A. D. 1915, the said corporation, The Butte Miners' Union passed a resolution withdrawing [5] from the Western Federation of Miners and refusing to longer affiliate with the said Western Federation of Miners.

VII. That thereafter, on or about the 13th day of July, A. D. 1915, demand was made upon the said defendant corporation by and on behalf of the plaintiffs, the members of the Western Federation of Miners, that it turn over to, transfer to the Western Federation of Miners, all of the property, money, books, and papers that it owned on the date of the passage of the aforesaid resolution withdrawing from the Western Federation of Miners and refusing longer to affiliate with the Western Federation of Miners; that the said corporation has not turned over to, transferred to, or conveyed to, the Western Federation of Miners or in any manner or at all put

the property which it owned at the time of the passage of the said resolution last mentioned, in the hands of, or possession of the said Western Federation of Miners; and that the said corporation defendant still claims to be the owner of all of the property that it was the owner of at the time of the passage of the last-mentioned resolution, and denies that the Western Federation of Miners is the owner of, or entitled to the said property, and denies the right of the plaintiffs, the members of the Western Federation of Miners, to the ownership of said property, and refuses to allow them to take or hold said property, and refuses to convey, transfer or deliver said property to the plaintiffs, your orators.

VIII. That the Western Federation of Miners has at all times kept and performed all of the covenants and agreements by it to be kept and performed in accordance with the terms of the hereinbefore set forth charter to the Butte Miners' Union, a corporation, the defendant herein, and has at its own expense and the expense of its membership, prosecuted suits for and in behalf of said corporation, defendant, and has defended suits for and in behalf of said corporation, defendant, and has at all times helped the defendant corporation to benefit the condition of its membership in their employment and work in and about mines, mills and smelters. [6]

IX. That at the time of the passage of the aforesaid resolution by the said corporation defendant, withdrawing from the Western Federation of Miners, the said corporation defendant was the owner of the following property, real, personal and mixed :

“The South Fifty (50) feet of Lot Number One (1), and the South Fifty (50) feet of Lot Number Two (2), and the South Fifty (50) feet of the East Twenty-one (21) feet of Lot Number Three (3), all in Block Number Eleven (11) of the Butte Townsite, in the City of Butte, County of Silver Bow, State of Montana.

A Note and Mortgage to secure the said note, for the sum of Twenty-five thousand (\$25,000.00) Dollars, given by the Lead City Miners' Union, a corporation of the State of So. Dakota, to The Butte Miners' Union, the defendant herein. The mortgage securing said note having been heretofore foreclosed, and the property of the Lead City Miners' Union in Lead, So. Dakota, having been sold at Sheriff's sale under said foreclosure, and having been bought in for and in behalf of the Butte Miners' Union, a corporation, by Charles H. Moyer, President of the Western Federation of Miners.

Money and Certificates of deposit in the Daly Bank and Trust Companies Bank, in the City of Butte, Montana, in excess of Ten Thousand (\$10,000.00) Dollars.

And books, papers, seals, and other property, the exact nature of which is unknown to your Orators.

That all of the hereinbefore described property was and is at all times herein mentioned in value to exceed the sum of Fifty Thousand (\$50,000.00) Dollars.”

X. That under and by virtue of the hereinbefore set forth contract and agreement between the defendant corporation and the Western Federation of Miners all of the hereinbefore described property, became on or about the 15th day of June, 1915, the property of your orators, and that the defendant herein now refuses to perform the terms of said contract as the same is evidenced by the application and charter hereinbefore set forth by copy.

XI. Your orators pray that your Honor may decree, that the defendant has no estate or interest whatsoever in or to the said lands and property hereinbefore described, and that your orators be decreed to be the owners of and entitled to the possession of the hereinbefore described property, and that your Honor decree that the defendant herein perform all of the terms of the herein set forth charter to it from the Western Federation of Miners, and that it turn over to, transfer to, and convey to, the Western Federation of Miners all of the herein described property; and that the said defendant and its agents, servants, employees, and officers be enjoined and restrained from asserting any claim whatsoever in and to the said lands and property, adverse to your orators, and for such other and further relief as the equity of the case may require, and to your Honor [7] may seem meet. And may it please your Honor to grant unto your orators a Writ of Subpoena of the United States of America, directed to the said The Butte Miners' Union, a corporation, and to such other as shall in the discretion of your Honor appear necessary to the hearing and determination of this



cause, commanding them on a day certain, to appear and Answer unto this Bill of Complaint; and to abide and perform such Order and Decree in the premises as to the Court shall seem proper and required by the principles of equity and good conscience.

CANNING & GEAGAN,

P. E. GEAGAN, of Firm of Canning & Geagan,

E. P. KELLY,

O. N. HILTON. [8]

State of Colorado,

City and County of Denver,—ss.

Chas. H. Moyer, being first duly sworn upon oath deposes and says: That he has read the foregoing Bill of Complaint. That he is one of the persons named therein as plaintiff as a member of the Western Federation of Miners. That he knows the contents thereof, and that the same is true of his own knowledge except as to the matters and things therein stated upon information and belief and as to these matters and things he believes them to be true.

CHAS. H. MOYER,

As Trustee for the Western Federation of Miners.

Subscribed and sworn to before me this 8th day of September, 1915.

FANNIE N. PETERSON,

Notary Public for the State of Colorado, Residing at  
Denver, Colo.

My commission expires May 6, 1919.

State of Colorado,

City and County of Denver,—ss.

Ernest Mills, being first duly sworn upon oath de-

poses and says: That he has read the foregoing Bill of Complaint. That he is one of the persons named therein as plaintiff as a member of the Western Federation of Miners. That he knows the contents thereof, and that the same is true of his own knowledge except as to the matters and things therein stated upon information and belief, and as to these matters and things he believes them to be true.

ERNEST MILLS.

Subscribed and sworn to before me this 8th day of September, 1915.

FANNIE N. PETERSON,  
Notary Public for the State of Colorado. Residing  
at Denver, Colo.

My commission expires May-6-1919. [9]

No. 33. In the District Court of the United States of America, for the District of Montana. Chas. H. Moyer, as Trustee for the Western Federation of Miners, et al., Plaintiffs, vs. The Butte Miners Union, a Corporation, Defendant. Bill of Complaint. Filed Sept. 15, 1915. Geo. W. Sproule, Clerk. By. Harry H. Walker, Deputy Clerk. Canning & Geagan and E. P. Kelly, and O. N. Hilton, Attorneys for Plaintiffs. [10]

And thereafter, on the 17th day of November, 1915, the Answer of Defendant was filed, being as follows, to wit: [11]

*In the District Court of the United States of  
America, for the District of Montana.*

CHARLES H. MOYER, as Trustee for the Western Federation of Miners a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, CHARLES H. MOYER, C. E. MAHONEY, ERNEST MILLS, THOMAS OWEN, J. E. COMMINS, CHARLES POGORELIC, YANCO TERZICH, J. C. WILLIAMS, C. E. BRIGHT, CHARLES DETRICH, WILLIAM BURNS, J. A. HERNDON, THOMAS McMANUS, E. G. LOCK, JAMES HANLEY, W. T. QUINN, PHILLIP RYAN, WILLIAM STANLICK, GUY E. MILLER, RUFUS BLAYLOCK, THOMAS GORMAN, EMANUEL DE MIO, L. S. SEXTON, SAMUEL W. MONROE, WILLIAM DAVIDSON, FRANK PHILLIPS, JAMES ROBERTS, JOSEPH GORMAN and M. C. LEAKE, as Members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado.

Plaintiffs,

vs.

THE BUTTE MINERS UNION, a Corporation,  
Defendants.

**Answer.**

Comes now the above-named defendant, the Butte Miners' Union, a corporation, now and at all times hereafter, saving and reserving to itself all manner of benefit and advantage or exception to the many errors and insufficiencies in complainants' said Bill of Complaint contained, and for answer thereunto or to so much or such parts thereof, as this defendant is advised is material for to make answer unto the said Bill of Complaint and plaintiffs', it answers and says :

1. Admits all the allegations contained in paragraph one of plaintiffs' Bill of Complaint.

2. For answer to paragraph two of plaintiffs' Bill of Complaint, this answering defendant doth deny that the Western Federation of Miners is now or at all times herein mentioned, was a voluntary unincorporated association of persons engaged [12] in the work of mining, milling, smelting, and reduction of ores and minerals, and in and about mines, mills, and smelters in the United States of America, the Dominion of Canada and British Columbia, and is divided into local unions in the different states of the United States of America, and in the Dominion of Canada, and in British Columbia, and has its headquarters in the City and County of Denver, State of Colorado, one of the United States of America; and that the membership of the above-named Western Federation of Miners is composed of several thousand persons, engaged in working in and about mines, mills, and smelters, and in and



about the mining, milling, smelting, and reduction of ores and minerals; and further alleging, and by way of explanation, this answering defendant doth say that at one time the said Western Federation of Miners was a voluntary unincorporated association of persons engaged in the work of mining, milling, smelting and reduction of ores and minerals, and in and about mines, mills and smelters in the United States of America, the Dominion of Canada and British Columbia, and was divided into local unions in the different states of the United States and in the Dominion of Canada, and in British Columbia, and did have its headquarters in the City and County of Denver, State of Colorado, one of the United States of America; and that the membership of the above-named Western Federation of Miners was composed of several thousand persons, engaged in working in and about mines, mills, and smelters, and in and about the mining, milling, smelting and reduction of ores and minerals, but that for a long period of time, prior to the commencement of this action, by reason of extravagance, mismanagement, failure to account for the funds collected, and oppressive assessments levied upon the members of the above-named Western Federation of Miners, and because of the self perpetuation in official positions of the plaintiffs' Charles H. Moyer, President of the Western Federation of Miners, [13] above named, C. E. Mahoney, Vice-president of the Western Federation of Miners above named, Ernest Miller, Secretary-Treasurer of the Western Federation of Miners above named, Yanco Terzich, Member of the Execu-

tive Board of the Western Federation of Miners above named, Guy E. Miller, Member of the Executive Board of the Western Federation of Miners above named, and others, who are not named as plaintiffs in this action, to wit: John C. Lowney, Member of the Executive Board of the said Western Federation of Miners and Albert N. Gauthier, and a large number of others, who have been carried on the payroll of the above-named Western Federation of Miners, when it was the possessor of funds, and their extravagance in the distribution of the funds of the above-named Western Federation of Miners, when it became known that John C. Lowney, Executive Board member of the above-named Western Federation of Miners, besides *per diem* amounting to Seven and 50/100 (\$7.50) dollars per day in addition to travelling expenses and incidentals, between the 22d day of August, 1913, and December 9, 1913, received from the funds of the above-named Western Federation of Miners, the sum of Eighty Thousand (\$80,000) Dollars; that from September 26, 1913, to October 16, of the same year, Guy E. Miller, one of the plaintiffs above named, and member of the Executive Board of the above-named Western Federation of Miners, received out of the funds of the above-named Western Federation of Miners, besides *per diem* at the rate of Seven and 50/100 (\$7.50) Dollars per day, travelling expenses and incidentals, from September 26th to October 16th, 1913, the sum of One Hundred Thousand (\$100,000) Dollars; that C. E. Mahoney, Vice-president of the above-named Western Federation of Miners, and one of the above-

named plaintiffs, besides *per diem* at the rate of Seven and 50/100 (\$7.50) Dollars per day, with travelling expenses, received between the dates of October 24, 1913 and November 17, of the same year, the sum of Eighty Thousand (\$80,000) Dollars; that Albert N. Gauthier, a member of the above-named [14] Western Federation of Miners, appointed to handle its funds, between the dates of December 23, 1913, and May 20, 1914, the sum of One Hundred Eleven Thousand Six Hundred (\$111,600) Dollars, out of the funds of the above-named Western Federation of Miners; that the plaintiff, Charles H. Moyer, President of the above-named Western Federation of Miners, in a period of three months commencing December 20, 1913, received from the funds of the above-named Western Federation of Miners, the sum of Twenty-five Thousand (\$25,000) Dollars, exclusive of *per diem* at the rate of Seven and 50/100 (\$7.50) Dollars per day and travelling expenses; that there was expended by the above-named Western Federation of Miners through its paid employees, for the year beginning July 1, 1913, and ending July 1, 1914, the sum of Nine Hundred, Nineteen Thousand, Five Hundred and Twenty-two and 03/100 (919,522.03) Dollars, internal dissensions crept into the above-named Western Federation of Miners, and caused the withdrawal of nearly all the locals composing it, that the same became and was at the time of the commencement of this action, practically extinct, insolvent and unable to accomplish any good for any of its members, or to protect them in any manner, and was, prior to the commencement of this ac-

tion, and still is, discredited in all the mining sections formerly represented by it, and because of said mismanagement and extravagance heretofore set forth, was and is unable to pay its bills or expenses or the salaries of its officers and employees, and was, and is unable to continue the publication of its official organ, namely, The Miners Magazine, and owes a large indebtedness and to all intents and purposes has ceased to exist.

3. Answering paragraph 3 of plaintiffs' Bill of Complaint, this answering defendant doth deny that the members of the above-named Western Federation of Miners before mentioned are very numerous being several thousand in number, and are residents and citizens of several different states of the United States, and of the Dominion [15] of Canada, a part of the British Empire, and of British Columbia a part of the British Empire; and that it is impracticable to bring them all before the Court as plaintiffs herein in person, and that the persons named herein as plaintiffs are members of the above-named Western Federation of Miners, and bring this suit for the benefit of all the members of the above-named Western Federation of Miners, and by way of explanation, doth call the attention of this Honorable Court, and without again repeating the same to the answer of paragraph 2, of said Bill of Complaint and Complaint as above set forth and in addition to the said allegations doth further say and particularly answering the latter portion of the said paragraph 3, wherein the said alleged plaintiffs allege, that it is impracticable to bring all of the members of the



above-named Western Federation of Miners before this Court as plaintiffs herein in person, and that the persons named herein as plaintiffs are members of the above-named Western Federation of Miners, and bring this suit for the benefit of all the members of the above-named Western Federation of Miners, and doth further allege, that nearly all of the members who are still paying dues to the above-named Western Federation of Miners, reside in the Cities of Anaconda and Butte, State of Montana, and if they desired the institution of the above-entitled action, could without any inconvenience to themselves or the above alleged plaintiffs appear themselves as plaintiffs. Further answering said paragraph 3 this defendant doth allege, that the above-named plaintiffs nor none of them, have any right to appear as said plaintiffs and by way of explanation doth say, to this Honorable Court, that Charles H. Moyer, C. E. Mahoney, Ernest Mills, M. C. Leake, Thomas Owen, J. E. Commins, Charles Pogorelic, Yanco Terzich, J. C. Williams, C. E. Bright, Charles Detrich, William Burns, J. A. Herndon, Thomas McManus, E. G. Lock, James Hanley, W. T. Quinn, Phillip Ryan, William Stanlick, Guy E. Miller, Rufus Blaylock, Thomas Gorman, Emanuel De Mio, L. S. Sexton, Samuel W. Monroe, William Davidson, Frank Phillips, [16] James Roberts and Joseph Gorman, nor any of them, were not at the date of this action, members of any local miners union in good standing in the above-named Western Federation of Miners, and therefore, could not be members of the said Western Federation of Miners, and have no right, claim,

title or interest to the property of this answering defendant, because of the facts above set forth, and further explaining and answering said paragraph, this answering defendant doth say, that there is no local organization of the above-named Western Federation of Miners in the State of Colorado, where the pretended plaintiffs, Charles H. Moyer, C. E. Mahoney, Ernest Mills, M. C. Leake, Thomas Owen, J. E. Commins or Charles Pogorelic claim to reside and be citizens of, nor are the above-named alleged plaintiffs, Charles H. Moyer, C. E. Mahoney, Ernest Mills, M. C. Leake, Thomas Owen, J. E. Commins or Charles Pogorelic members in good standing in any local miners union in good standing in the above-named Western Federation of Miners in the State of Colorado, or any place else; that the plaintiffs Yanco Terzich or J. C. Williams are not members in good standing in any local union in good standing in the above-named Western Federation of Miners in the State of California or any place else; that the plaintiffs, C. E. Bright or Charles Detrich are not members in good standing in any local union of the above-named Western Federation of Miners in the State of Arizona or any place else; that the plaintiff, William Burns is not a member in good standing in any local union in the above-named Western Federation of Miners in the State of Nevada, or any place else, and is not a citizen of said State, but *it* a citizen of British Columbia; that the plaintiffs, J. A. Haddon or Thomas McManus are not members in good standing in any local union of the above-named West-

ern Federation of Miners in good standing in the State of Nevada or any place else; that the plaintiffs, E. G. Lock, James Hanley or W. T. Quinn are not members in good standing in any local union in good standing [17] in the above-named Western Federation of Miners in the State of Utah or any place else; that the plaintiff, Samuel W. Monroe is not a member in good standing in any local union that is in good standing in the above-named Western Federation of Miners in the State of Idaho or any place else; that William Stanlick is not a member in good standing in any local union that is in good standing in the above-named Western Federation of Miners in the State of New Jersey or any place else; that the plaintiffs, Guy E. Miller or Rufus Blaylock are not members in good standing in any local miners union in good standing in the above-named Western Federation of Miners in the State of Missouri, or any place else, nor is there any local miners unions existing in the said State of Missouri; that the plaintiff, Thomas Gorman is not a member in good standing in any local union in good standing in the above-named Western Federation of Miners in the State of South Dakota, or any place else, and defendant doth further say, that there is no local miners unions in the State of South Dakota; that the plaintiff Emanuel De Mio is not a member in good standing in any local miners union that is in good standing in the above-named Western Federation of Miners in the State of Wisconsin or any place else, and that there are no local miners unions in the State of Wisconsin that the plaintiff, L. S. Sexton, is not a member

in good standing in any local miners union that is in good standing in the above-named Western Federation of Miners in the State of Kentucky or any place else; that the plaintiff, Samuel W. Monroe is not a member in good standing in any local miners union in good standing in the above-named Western Federation of Miners in the State of New Mexico or any place else; that the plaintiffs, W. Davidson, Frank Phillips or James Roberts are not members in good standing in any local miners union in good standing in the above-named Western Federation of Miners in British Columbia or any place else; that the plaintiff, Joseph Gorman is not a member in good standing in any local union in good standing in the above-named Western Federation of Miners in Ontario in the Dominion of [18] Canada, or British Empire or any place else.

4. Answering paragraph 4 of plaintiff's Bill of Complaint and Complaint, this answering defendant doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiffs, C. H. Moyer, C. E. Mahoney, Ernest Mills, M. C. Leake, Thomas Owen, J. E. Commins, and Charles Pogorelic or either of them, are citizens or residents of the State of Colorado; further answering said paragraph, this answering defendant doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiffs, Yanco Terzich and J. C. Williams, or either of them, are citizens or residents of the State of California; further answering said paragraph this answering defendant



doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiffs C. E. Bright and Charles Detrich, or either of them, are citizens or residents of the State of Arizona; further answering said paragraph, this answering defendant doth allege, that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiff, William Burns, is a citizen or resident of the State of Nevada; further answering said paragraph this answering defendant doth allege, that it has no knowledge or information thereof sufficient to form a belief as to whether or not the alleged plaintiffs, J. A. Herndon and Thomas McManus, or either of them, are citizens or residents of the State of Nevada; further answering said paragraph this answering defendant doth allege that it has no knowledge or information thereof sufficient to form a belief as to whether or not the alleged plaintiffs, E. G. Lock, James Hanley and W. T. Quinn, or either of them, are citizens or residents of the State of Utah; further answering said paragraph this answering defendant doth allege, that it has no knowledge or information thereof, [19] sufficient to form a belief as to whether or not the alleged plaintiff, Phillip Ryan is a citizen or resident of the State of Idaho; further answering said paragraph, this answering defendant doth allege, that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiff William Stanlick is a citizen or resident of the State of New Jersey; further answering said paragraph this answer-

ing defendant doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiffs, Guy E. Miller and Rufus Blaylock, or either of them, are citizens or residents of the State of Missouri; further answering said paragraph this answering defendant doth allege, that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the alleged plaintiff, Thomas Gorman, is a citizen or resident of the State of South Dakota; further answering said paragraph, this answering defendant doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not the plaintiff, Emanuel De Mio is a citizen or resident of the State of Wisconsin; further answering said paragraph this answering defendant doth allege that it has no knowledge or information thereof sufficient to form a belief as to whether or not the plaintiff, L. S. Sexton is a citizen or resident of the State of Kentucky; further answering said paragraph this answering defendant doth allege, that it has no knowledge or information thereof sufficient to form a belief as to whether or not Samuel W. Monroe is a citizen or resident of the State of New Mexico; further answering said paragraph this answering defendant doth allege that it has no knowledge or information thereof, sufficient to form a belief as to whether or not W. Davidson, Frank Phillips and James Roberts, or either of them, are citizens or residents of British Columbia; further answering said paragraph, this answering [20] defendant doth allege, that it has no knowledge or information

thereof, sufficient to form a belief as to whether or not Joseph Gorman is a citizen or resident of Ontario, in the Dominion of Canada.

5. Answering paragraph 5 of plaintiffs' said Bill of Complaint and Complaint, this answering defendant admits that on or about the 22d day of September, 1914, the defendant made application "for a reissuance of a charter to the said corporation to take the place of its first charter recently lost or destroyed," as fully set forth in said paragraph 5 in plaintiffs' Bill of Complaint and Complaint, and admits that the above-named Western Federation of Miners did send it a charter, a true copy of which said charter is set forth in said paragraph 5 of plaintiffs' Bill of Complaint and Complaint, but denies that the said charter is a reissuance of the charter "lost or destroyed," which said charter was dated May 15, 1893, and denies that this defendant accepted in any manner or at all, the said charter or worked at all under the same until the 13th day of June, 1915, or at all, and alleges the fact to be that the said charter was rejected by this defendant, upon its arrival, for the reason that it was not a reissuance or a duplicate of the former charter, heretofore referred to. Denies that any contract was made by said application and pretended charter, or at all.

6. Answering paragraph 6 of plaintiffs' Bill of Complaint and Complaint, this defendant admits all the allegations contained therein, and further alleges that for a long time prior thereto, to wit, since the receipt of the said pretended charter, above referred to, that it has refused to longer affiliate with the

above-named Western Federation of Miners, or to pay monthly dues thereto.

7. Answering paragraph 7 of plaintiffs' Bill of Complaint and Complaint, this answering defendant admits all the allegations contained therein. [21]

8. Answering paragraph 8 of plaintiffs' Bill of Complaint and Complaint, this answering defendant denies each and all of the allegations contained therein, and more particularly this answering defendant doth deny that the terms and conditions of the charter above referred to, were never agreed upon between plaintiffs and defendant; and this defendant doth further deny that the above-named Western Federation of Miners ever did or perform any of the terms or conditions of the original charter bearing date of May 15, 1893, and denies that the above-named Western Federation of Miners ever paid the expenses of litigation for this answering defendant, or ever helped the defendant corporation to benefit the condition of its membership in their employment and work in and about mines, mills and smelters, in any manner whatsoever, and on the contrary alleges the fact to be, that during the time this answering defendant was affiliated with the above-named Western Federation of Miners, the above-named Western Federation of Miners drew as per capita tax, money for supplies, donations and assessments, both forced and voluntary, from this defendant, a sum in excess of One Million (\$1,000,000) Dollars, and when members of this defendant would protest against the enormous claims made upon it, they would be informed by the executive officers of



the above-named Western Federation of Miners that they would have to pay said assessments whether they liked it or not, and this defendant doth further answer that when it was in trouble during the months of June, July, August, September and October of the year 1914, that the above-named Western Federation of Miners, through its executive officers, tried to draw its moneys on deposit in the banking-house of the Daly Bank and Trust Company, and did attempt to adopt an amendment to its constitution so as to give its president, Charles H. Moyer, authority to, contrary to the laws of the State of Montana, take possession, management and control of the property of The Butte Miners' Union, a corporation, the defendant herein, and did institute and prosecute suits [22] in the District Court of Silver Bow County, Montana, for said purpose, and the said plaintiff, Charles H. Moyer, assisted, aided and abetted by the plaintiffs, C. E. Mahoney, Ernest Mills, Guy E. Miller, and the executive board member, J. C. Lowney, attempted on numerous occasions to extort Five Thousand (\$5,000) Dollars from the already depleted treasury of this answering defendant, and did for said purpose, send officials and paid representatives of the above-named Western Federation of Miners, to urge the donation of said amount, during the months of July, August, September and October of the year 1914, and when this request for said donations was refused, the said officers of the above-named Western Federation of Miners, did cut off and set aside this answering defendant from any knowledge regarding what was being done by the above-named



Western Federation of Miners, and did refuse to furnish this defendant with a copy of its quarterly report, or to in any manner assist it to build up its membership and finances, and to all intents and purposes, did suspend this answering defendant.

8a. Further answering paragraph 8 of plaintiffs' Bill of Complaint and Complaint, this defendant doth allege that instead of the above-named plaintiffs and the above-named Western Federation of Miners prosecuting suits on behalf of this defendant, this defendant has at its own expense on numerous occasions personally employed counsel to defend the above-named Charles H. Moyer and other members of the above-named Western Federation of Miners, and has contributed large sums of money to carry on litigation for and on behalf of the above-named Western Federation of Miners.

9. Admits each and all of the allegations contained in paragraph 9 of plaintiffs' Bill of Complaint and Complaint.

10. Answering paragraph 10 of plaintiffs' Bill of Complaint and Complaint, this answering defendant, denies the existence of any contract between defendant and plaintiffs above named. And denies that, because of the existence of any such alleged contract, that all or any of the property of this defendant corporation [23] became on or about the 15th day of June, 1915, or at any other date, or at all, the property of plaintiffs and further allege the fact to be that this answering defendant corporation was at said time, and for many years last past, unable by virtue of the laws of Montana, to make or enter into

any such contract or to bind itself, its property or the property of its members in any such manner, or at all, or to dispose of the said property or its control in any manner, or at all, other than as provided by the laws of the State of Montana, or to subject itself or its members or its or their corporate property, to the jurisdiction of an authority existing outside of or beyond the control of the laws of the State of Montana, the State under which it was created. Admits that the defendant did heretofore refuse to turn over the said property under the terms of the said alleged contract as set forth in said paragraph 10 of plaintiffs' Bill of Complaint and Complaint. [24]

Further answering and as a first affirmative defense to the Bill of Complaint and Complaint of plaintiffs herein, this answering defendant alleges:

1. That the plaintiffs and neither of them are entitled to the relief prayed for or any relief.

For a second affirmative defense to the Bill of Complaint and Complaint of plaintiffs herein, this answering defendant alleges:

2. That the defendant is not answerable to the plaintiffs, or any of them, and if answerable to anyone at all, it is to the above-named Western Federation of Miners.

For a third affirmative defense to the Bill of Complaint and Complaint of plaintiffs herein, this answering defendant alleges:

3. That the defendant, The Butte Miners' Union, a Corporation, is now and has been ever since the 13th day of June, 1878, a *bona fide* voluntary labor organization, composed of men engaged in mining, milling,

smelting and the reduction of ores and minerals in and about the mines, mills and smelters in the County of Silver Bow, State of Montana, and during all of said time, has exercised jurisdiction over said class of labor as above set forth, in the County of Silver Bow, State of Montana, and ever since the 4th day of May, 1881, has been a corporation duly organized and existing under and by virtue of the laws of the State of Montana, with its place of business in the City of Butte, County of Silver Bow, State of Montana, and the said defendant did on or about the said 4th day of May, 1881, duly and regularly file in the office of the county clerk and recorder of Silver Bow County, Montana, its articles of incorporation, a true copy of which said articles of incorporation are attached to Exhibit "L" hereof, marked Exhibit "I" thereof, and made a part of this answer.

4. That the said The Butte Miners' Union, a Corporation, [25] defendant herein, did thereafter, in compliance with the said articles of incorporation, adopt a constitution and by-laws for its government, which said constitution and by-laws were not and are not in conflict with the said articles of incorporation, and did proceed to do and perform each and all of the obligations by it to be done and performed to its members in compliance with the laws of the State of Montana.

5. That thereafter on or about the 8th day of February, 1901, the above-named defendant filed in said clerk and recorder's office an extension of its corporate existence, a true copy of which extension is attached to exhibit "L" hereof, marked Exhibit "II"

thereof, and made a part of this Answer.

6. That thereafter, this answering defendant filed in said county clerk and recorder's office, a certificate of change of name of said corporation, by changing the name to "The Butte Miners' Union," its commonly known and accepted name, instead of "Miners' Union," a true copy of which certificate is attached to exhibit "L" hereof, marked Exhibit "III" thereof, and made a part of this Answer, and the original of all exhibits in this paragraph were duly filed in the office of the Secretary of State of Montana.

7. That ever since said 18th day of April, A. D. 1881, when the said defendant became a corporation, under and by virtue of the laws of the then Territory of Montana, the said defendant has carried on and conducted all of its business under and by virtue of its articles of incorporation, and as a corporation, and not otherwise.

8. That the said defendant, The Butte Miners' Union, a corporation, has never asked to wind up its affairs or wound up its affairs, or been dissolved or disbanded, according to the laws of Montana, or in any manner whatsoever.

9. That in compliance with its constitution and by-laws, this answering defendant, since its organization as a voluntary association [26] of miners and workingmen and later as a corporation, and for the purpose of building a hall in which to hold its meetings and transact its business, establishing a library, caring for its sick and burying its dead, did by their consent collect monthly dues from each of its members, which said money so collected was used



for the purposes above specified.

10. That the above-named plaintiffs, or any of them, did not have anything to do with the organization or creation of this answering defendant, either as a voluntary association of miners, or as a corporation, organized and existing under and by virtue of the laws of Montana, but, on the contrary, this answering defendant was organized as a corporation, and doing business as such for a period of more than twelve years prior to the organization of the above-named Western Federation of Miners, an alleged voluntary association of persons, with its headquarters in the City and County of Denver, State of Colorado, and that prior to its incorporation it had been doing business as a voluntary industrial organization, as above set forth, for a period of nearly three (3) years, which would antedate the birth of the above-named Western Federation of Miners, a period of about fifteen (15) years.

11. That the relations existing between this answering defendant and its members was a voluntary relation.

12. That by reason of the monthly dues so collected as aforesaid, and the investment of its surplus funds created thereby, this answering defendant was enabled to build a hall, care for its sick and distressed members, bury its dead and fulfill the objects of its corporate existence, and was further able to deposit in the banks of Silver Bow County a large surplus of money, which on or about the 15th day of May, 1893, amounted to the sum of approximately Sixty Thousand (\$60,000) Dollars, and did, during said



time, by reason of its income from dues and revenue derived from the rent of its hall and interest derived from its deposits, after [27] caring for its sick and burying its dead, and in every manner fulfilling the objects of its corporate existence, have, in addition to the amount set forth, moneys loaned to other miners' unions in the sum of approximately Fifteen Thousand (\$15,000) Dollars.

13. That no part of the said moneys and other properties above set forth was created by the plaintiffs or any of them or in any other manner than as above specified.

14. That on or about the latter part of the month of April and the early part of the month of May, 1893, this answering defendant, in conjunction with other miners' unions located in the County of Shoshone, State of Idaho, in the Black Hills, District of South Dakota, and at the towns of Granite Castle, Neihart and Barker, in the State of Montana, called a convention, composed of delegates elected by said unions to meet in the City of Butte, for the purpose of creating a better understanding and the harmonious interchange of working cards between themselves, and to create a central body, composed of delegates elected from each local in attendance thereat, in proportion to the number of its members, through which communications could be received and sent, and which could arbitrate possible differences that might arise between locals composing it, or between employers and its locals, and did create the above-named Western Federation of Miners.

15. This answering defendant further alleges that

membership of locals in the above-named Western Federation of Miners is solely voluntary; there being no means or method by which a local can be compelled to join the above-named Western Federation of Miners, or by which the above-named Western Federation of Miners can compel the said local to retain its membership after admission. The existence of the above-named Western Federation of Miners, depending solely upon the voluntary revenue derived as per capita tax from different locals, it not having any other income, could not exist without the [28] payment of the said per capita, while on the contrary, the locals comprising it can exist independent of the above-named Western Federation of Miners.

16. That upon its organization as a central body, the above-named Western Federation of Miners did adopt a constitution and by-laws which said constitution and by-laws governed the conditions under which new locals could be admitted to membership, which said constitutional provision providing for admission to membership is as follows:

“Section 3, Article 1.

Whenever twenty or more persons working as specified in Section 1 of this article, shall be found that will be self-supporting, they shall, on application, be granted a charter. Provided that no charter shall be issued the effect of which is to segregate the crafts engaged in the mining industry.”

And did provide a method by which revenues could be raised, which said provision relating thereto, is as follows:

## “Section 1, Article VI.

The revenue of the Federation shall be derived from a charter fee of ten dollars and per capita tax of twenty-five cents per month on all monthly dues collected in accordance with the stamp system, to be paid from the general fund of each union, through the purchase of said stamps in advance, and in case of emergency such assessments, as in the judgment of the Executive Board of convention may be necessary, the same shall be paid from the general fund, and based on the preceding monthly report previous to such assessment.”

and the said section above quoted, provides the only method by which revenue or income of the above-named Federation can be obtained, there appearing no where in the said constitution and by-laws of the above-named Western Federation of Miners, any forfeiture clause or any other method whatever appearing therein, whereby the property of any one of its locals can become forfeited to or confiscated by it, upon the withdrawal of the said local from membership in the above-named Western Federation of Miners, a true copy of the constitution and by-laws of the above-named Western Federation of Miners is attached hereto, marked exhibit “D” and made a part of this answer. [29]

17. That thereafter on or about the 15th, day of May, 1893, this answering defendant accepted a charter from the above-named Western Federation of Miners, which said charter contained no forfeiture clause of its property or property rights whatever,

now did this answering defendant have any authority or power under the laws of Montana, to make or enter into any such contract.

18. That for sometime subsequent to May, 1893, the above-named Western Federation of Miners, an alleged voluntary organization and association of persons, composed of delegates from local unions, with its headquarters in the City and County of Denver, State of Colorado, was a *bona fide* labor organization, composed as aforesaid, of various local unions or organizations in different states and territories in the United States of America and also in Canada.

19. That thereafter on or about the 15th day of May, 1893, this answering defendant received and accepted a charter from the above-named Western Federation of Miners, which said charter contained no forfeiture clause of its property or property rights whatsoever, nor did anything of value pass from the above-named Western Federation of Miners to this answering defendant, The Butte Miners' Union, a corporation, by reason of its acceptance of the said charter, to repay it for the per capita tax called for, under the said charter to be paid by this defendant, The Butte Miners' Union, a corporation, to the above-named Western Federation of Miners, and that any per capita, assessments or moneys received from this answering defendant, was given by it to and received by the above-named Western Federation of Miners, without any consideration whatever, passing from it to this answering defendant, nor did this answering defendant, have any authority or



power under the laws of Montana, to make or enter into any contract that would in any manner place itself, its property or the corporate property of itself or its members under the jurisdiction and control of an authority existing outside of or beyond the control of the laws of the State of Montana, the State under which it was created. [30]

20. That between the 15th day of May, 1893, the date of issuance of the first charter and the 1st day of December, 1914, The Butte Miners' Union, a Corporation, defendant herein as aforesaid, has paid to the above-named Western Federation of Miners, as per capita tax, assessments levied and donations applied for, a sum in excess of One Million (\$1,000,000) Dollars.

21. That the said The Butte Miners' Union, a Corporation, the defendant herein, between the 1st day of July, 1913, and the first day of July, 1914, paid as assessments to the above-named Western Federation of Miners, One Hundred Thirty-eight Thousand Eight Hundred and Twenty-five and 60/100 (\$138,825.60) Dollars, donations, Twenty-one Hundred (\$2100) Dollars, per capita, Seventeen Thousand Five Hundred (\$17,500) Dollars, supplies, Five Hundred (\$500) Dollars, amounting to the total sum of One Hundred Fifty-eight Thousand Nine Hundred and Twenty-five and 60/100 (\$158,925.60) Dollars.

22. That between January 5, 1914, and June 15th, of said year, in dues, assessments and donations, the above-named Western Federation of Miners, re-



ceived the following sums of money from The Butte Miners' Union, a Corporation:

January	5.....	\$ 2,000.00
"	19.....	10,000.00
"	22.....	10,000.00
February	4.....	5,000.00
"	5.....	1,250.00
"	16.....	10,000.00
"	23.....	1,250.00
"	23.....	100.00
March	6.....	8,000.00
"	23.....	10,000.00
"	23.....	1,250.00
April	16.....	6,000.00
"	16.....	450.00
"	22.....	8,000.00
May	20.....	1,000.00
June	4.....	1,250.00
"	15.....	3,000.00

Making a total of Seventy-eight Thousand, Five Hundred and Fifty (78,550) Dollars.

23. That upon January 1, 1914, the above-named Western Federation [31] of Miners claimed that this defendant, The Butte Miners' Union, a Corporation, owed it a balance of Forty-four Thousand Two Hundred and Sixty-eight and 15/100 (\$44,268.15) Dollars, and from said date, January 1, 1914, to June 2d of said year, the following additional amounts:

January	1.....	\$44,268.15
"	16.....	1,250.00
"	21.....	55.50
February	1.....	15,428.00
"	5.....	1,250.00
"	10.....	166.50
March	1.....	20,317.50
"	2.....	1,250.00
"	2.....	7.50
"	18.....	1,250.00
April	1.....	20,639.50
"	10.....	1,250.00
May	1.....	19,656.00
"	7.....	1,250.00
June	1.....	7,576.00
"	2.....	1,250.00

making a total amount owing from January 1, 1914, to June 2, 1914, One Hundred Thirty-six Thousand, Eight Hundred and Sixty-four and 65/100 (\$136,864.65) Dollars.

24. After receiving the said sum of Seventy-eight Thousand Five Hundred and Fifty (\$78,550) Dollars, in a period of six (6) months, the above-named Western Federation of Miners, claim that at said time, to wit, June 13 1914, there was due and owing from the defendant herein, The Butte Miners' Union, a Corporation, to the above-named Western Federation of Miners, a balance of Sixty Thousand Four Hundred and Fifteen and 65/100 (\$60,415.65) Dollars.

25. This defendant further alleges that during all of the times in which the above-named Western

Federation of Miners, demanded and received the said sums of money above set forth, from the Butte Miners' Union, a Corporation, defendant herein, the said corporation was compelled to pay the said sums of money to the above-named Western Federation of Miners, through its officers and salaried agents and were not permitted to, at any time, send the money themselves, to the places wherein the said officers of the above-named Western Federation of Miners claimed it was wanted for and was to be sent.

[32]

26. This answering defendant further alleges, that through all of the years in which the said The Butte Miners' Union, a Corporation, defendant herein, was a local of the above-named Western Federation of Miners, that it has not received *on* cent of benefit in any shape, manner or form from the above-named Western Federation of Miners.

27. This answering defendant further alleges, that on or about the 16th day of May, 1893, the said The Butte Miners' Union, a Corporation, defendant herein, had thousands of members and thousands of dollars in its treasury. That all of its members were working in harmony and that they enjoyed the respect, confidence and good will of all of the employers of miners in the County of Silver Bow, State of Montana, and its union cards were recognized and respected by all of them.

28. That because of the tyranny and many exactions of the above-named Western Federation of Miners, and the manner in which the money of The Butte Miners' Union, a Corporation, defendant here-

in, had been taken by the above-named Western Federation of Miners, without any return to The Butte Miners' Union, a Corporation, dissatisfaction was created among its members and the citizens of Silver Bow County, to such an extent that many of defendants members revolted on the 13th day of June, 1914, and later on the 23d day of said month, when the plaintiff, Charles H. Moyer, came to Butte to run the business of The Butte Miners' Union, a Corporation, defendant herein, assisted by many others, they again destroyed a large amount of property of this defendant, including the charter above-mentioned, and attempted to capture and hang the plaintiff, Charles H. Moyer.

29. That shortly after the 13th day of June, 1914, the date on which the charter from the above-named Western Federation of Miners, to this answering defendant, bearing date of May 15, 1893, was destroyed, the above-named plaintiff, Charles H. Moyer, attempted [33] to draw the moneys, the property of this answering defendant deposited by it in the banking-house of the Daly Bank and Trust Company, and did thereafter, for a period of more than four (4) months, continually appeal to this answering defendant for funds and requested of it a donation of Five Thousand (\$5,000) Dollars and did send numerous paid servants and agents of the said Charles H. Moyer to the meetings of this answering defendant, for the purpose of extorting from it the same sum of Five Thousand (\$5,000) Dollars.

30. That for the purpose of avoiding the importunities of the said officers and servants of the above-

named Western Federation of Miners, this answering defendant did donate One Hundred (\$100) Dollars to the said Moyer, et al. That in addition to the said request as aforesaid, this answering defendant was continually harassed by the presentation to it of bills, to wit, Expenses incurred by the above-named plaintiff, Charles H. Moyer, in the hiring of gunmen to protect him in the City of Butte, from on or about the 18th day of June, 1914, until the 24th day of June of said year, and for the payment of rifles contracted for by him and also rifles borrowed by him during said time, and which were lost by him or taken away from him, on the night of the 23d day of June, 1914, which said bills so contracted by the said Charles H. Moyer, as aforesaid, were paid under protest by this answering defendant.

31. That on or about the 22d day of September, A. D. 1914, for the purpose of keeping in communication with other local organizations of miners, this answering defendant applied to the above-named Western Federation of Miners, for a reissuance of its charter bearing date of May 15, 1893. That thereafter a certain charter, which was not a reissuance or a duplicate of the charter above referred to, was sent to this answering defendant and rejected by it.

[34]

32. That upon the refusal of this answering defendant, The Butte Miners' Union, a Corporation, to accept the charter so sent, the above-named plaintiffs, Charles H. Moyer, C. E. Mahoney, Ernest Mills, Guy E. Miller, and others refused to recognize this answering defendant or to communicate with them in



any manner, other than asking for money, and did refuse to furnish any statement of its financial standing or quarterly report, or any other information to this answering defendant, and to all intents and purposes, suspended this answering defendant, and did thereafter, on or about the 18th day of December, 1914, bring an action in the District Court of Silver Bow County, for the purpose of getting the possession, management and control over the property of this answering defendant, and did procure an order temporarily restraining this answering defendant from repairing its hall or improving its property in any manner.

33. This answering defendant further says: The said requests for donations for the payment of the numerous bills of the above-named Western Federation of Miners and its officers, during the later part of the month of June, and the months of July, August, September, October, November and December, 1914, became so numerous, expensive and burdensome, that the loyal members of this answering defendant, The Butte Miners' Union, a Corporation, who had remained loyal to it, during all of its troubles, refused to longer contribute money for its support and it did thereafter, on or about the 15th day of June, 1915, by resolution of this defendant, withdraw as a local, and has not been since said date in any manner connected with the above-named Western Federation of Miners.

This answering defendant doth further say to this Honorable Court, that during all of the times that it was acting as a local of the above-named Western

Federation of Miners, and contributing vast sums of money for its support, that it never received any benefit, financial or otherwise, of any kind, character or description from the said the above-named Western Federation of Miners. [35]

For a fourth affirmative defense to the Bill of Complaint and Complaint of plaintiffs herein, this answering defendant alleges:

34. That heretofore and on or about the 17th day of December, 1914, an action, numbered A-6590, was commenced by the filing of a Complaint in the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, by The Western Federation of Miners, a voluntary organization, association of persons with its headquarters in the City and County of Denver, State of Colorado, and CHARLES H. MOYER, President of the Western Federation of Miners, a voluntary organization and association of persons, with its headquarters in the City and County of Denver, and State of Colorado, GUY E. MILLER and ED O'BYRNE, Plaintiffs, vs. MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN, JAMES RYAN, JAMES WALSH, and PATRICK QUIGLEY, Defendants. And thereafter on or about the 8th day of February, 1915, the said plaintiffs therein, in said action, by leave of court served and filed their Amended Complaint in said action, a true copy of which Amended Complaint is hereto attached, marked Exhibit "E," and made a part of this answer; that thereafter, on or about the 20th day of February, 1915, the said defendants in said action,

duly served and filed their answer to said Amended Complaint, a true copy of which answer is hereto attached, marked Exhibit "F," and made a part of this Answer; that thereafter on or about the 13th day of May, 1915, the said plaintiffs in said action, by leave of court first had and obtained, filed their reply to said answer a true copy of which reply is hereto attached, marked Exhibit "G," and made a part of this Answer; that thereafter on or about the — day of May, 1915, the said plaintiffs in said action, by leave of court first had and obtained, amended said Amended Complaint, by substituting for Exhibit "D" thereof a power of attorney from Charles H. Moyer to Guy E. Miller, [36] another and different power of attorney from Charles H. Moyer to Guy E. Miller, a true copy of which last-mentioned power of attorney is hereto attached, marked Exhibit "H," and made a part of this Answer; that on or about the 8th day of February, 1915, the said District Court of the Second Judicial District made and entered an order that the said defendants in said action appear before said court to show cause, why a temporary restraining order, should not issue in said court restraining said defendants in said action from doing certain acts, a true copy of which said order to show cause is hereto attached, marked Exhibit "I," and made a part of this Answer; that thereafter and on or about the 20th day of February, 1915, the said order came regularly on for hearing and the hearing was not completed, and said order, was at divers times, partially heard, and was finally on or about the 2d day of June, 1915, finally sub-

mitted and the said Court, which after hearing the evidence submitted and the arguments of counsel, afterwards on the 12th day of June, 1915, duly made and entered an order restraining the said defendants in said action, except James Ryan and James Walsh, from doing certain acts, a true copy of which order is hereto attached marked Exhibit "J," and made a part of this Answer; that thereafter on or about June 14, 1915, the said Court, made and entered another order, a true copy of which order is hereto attached marked Exhibit "K," and made a part of this answer; that thereafter and on or about the 28th day of June, 1915, the said The Butte Miners' Union, a Corporation, Martin Seahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan and Patrick Quigley, on the relation of the State of Montana, duly commenced proceedings in the Supreme Court of the State of Montana, to annul said orders of the District Court, by the filing of an affidavit against the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, and the Hon. John B. McClernan, one of the Judges thereof; Western Federation [37] of Miners, a voluntary organization, association of persons with its headquarters in the City and County of Denver, State of Colorado; Charles H. Moyer, president of the Western Federation of Miners, a voluntary organization and association of persons with its headquarters in the City and County of Denver, State of Colorado; Guy E. Miller and Ed O'Byrne, as respondents and defendants, a true copy of which affidavit is hereto



attached, marked Exhibit "L," and made a part of this Answer; that thereafter and on said 28th day of June, 1915, the said Supreme Court of the State of Montana, duly made and entered an order, ordering the said respondents and defendants in said proceedings to be and appear before said Supreme Court on the 3d day of July, 1915, then and there to show cause, if any they had, why said orders made on said June 12, 1915, and June 14, 1915, should not be annulled and set aside, a true copy of which order to show cause is hereto attached marked Exhibit "M," and made a part of this Answer; that on said 3d day of July, 1915, said order to show cause in said proceedings came duly and regularly on for hearing in said Supreme Court, and the said respondents and defendants in said proceedings served and filed their motion to quash the said order to show cause, a true copy of which motion is hereto attached, marked Exhibit "N," and made a part of this Answer; that on said 3d day of July, 1915, the said respondents and defendants in said proceedings served and filed their answer, a true copy of which answer is hereto attached, marked Exhibit "N-I," and made a part of this Answer; that by order of said Supreme Court the matters and things in said Answer alleged were deemed denied; that on said 3d day of July, 1915, said action and proceedings were submitted to the said Supreme Court for decision; that afterwards, on the 7th day of July, 1915, the said Supreme Court duly and regularly made, gave and



entered its judgment in said matter, annulling the said orders of the said District Court, a true copy of which judgment is hereto attached, marked Exhibit "O," and made a part of this Answer. [38]

35. That by reason of the premises and by said judgment of said Supreme Court the matters and things in the plaintiffs' Bill of Complaint in this action contained were finally adjudicated and settled and the plaintiffs are each and all thereby estopped and barred from prosecuting or maintaining this action and from prosecuting or maintaining this proceeding.

For a fifth affirmative defense to the Bill of Complaint and Complaint of plaintiffs, this answering defendant alleges:

36. That this defendant received no consideration whatever from the above-named Western Federation of Miners, or any person, for the said original charter or the said pretended reissuance of said charter, or any part of either, and there is no consideration and there was no consideration for any part of either.

For a sixth affirmative defense to the Bill of Complaint and Complaint of plaintiffs, this answering defendant alleges:

37. That the defendant herein received no consideration whatever from the above-named Western Federation of Miners, or any person, nor is there nor was there any consideration whatever, for the following clause of said pretended reissuance of said charter, or any part thereof, to wit: "It is

agreed that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers shall become the property of the Western Federation of Miners''; nor is there nor was there any such clause, or any part thereof, either in words or in substance, in said original charter, which original charter has been lost or destroyed and cannot be herein in this answer set forth. [39]

For a seventh affirmative defense to the Bill of Complaint and Complaint of plaintiffs, this answering defendant alleges:

38. That there is no provision in said constitution and by-laws of the above-named Western Federation of Miners, exhibit "D" of this answer, and no provision exists or ever existed, authorizing the issuance, or empowering any officer or member of the above-named Western Federation of Miners or the above-named Western Federation of Miners to issue any charter, or other instrument, containing the following clause, or any part thereof, either in words or in substance, to wit: "It is agreed that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners," and said clause was inserted in the said pretended reissuance of said original charter without any authority whatever and contrary to said constitution and by-laws, and is in excess of the power granted by said constitution and by-laws, and is wholly null and void, and is contrary to public policy.

For an eighth affirmative defense to the Bill of Complaint and Complaint of plaintiffs, this answering defendant alleges:

39. That the said pretended reissuance of said charter, set forth in paragraph V of said Bill of Complaint, and the contract therein attempted to be expressed, namely, "It is agreed that should the afore-said union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers shall become the property of the Western Federation of Miners," are each and all illegal and against public policy and each and all and every portion thereof contravene the express provisions of section 4226, Revised Codes of Montana of 1907, as amended by chapter 101 of the Session Laws, 1909, of the 11th Legislative Assembly of the State of Montana. [40]

For a ninth affirmative defense to the Bill of Complaint and Complaint of plaintiffs, this answering defendant alleges:

40. That the said pretended reissuance of said charter, set forth in paragraph V of said Bill of Complaint, and the contract therein attempted to be expressed, namely, "It is agreed that should the afore-said union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers shall become the property of the Western Federation of Miners," are each and all illegal and against public policy and each and all and every portion thereof contravene the express provision of sections 3889 and 3890 of the Revised Codes of the State of Montana of 1907. [41]

WHEREFORE, having fully answered, this answering defendant prays that your Honor may decree that the plaintiffs take nothing whatever by this action, and that defendant be decreed the sole owner of the property described in plaintiff's Bill of Complaint and Complaint, and that it be further decreed that the said plaintiffs and each and all of them, their agents, servants, employees, officers and all persons acting by their direction and under their control, be permanently and forever enjoined and restrained from asserting any claim whatsoever in or to the said lands and personal property of the defendant corporation in any manner, and that it be decreed entitled to its costs herein expended.

PETER BREEN,

Attorney for Defendant. [42]

State of Montana,

County of Silver Bow,—ss.

Charles Baxter, being first duly sworn, says: That he is an officer, to wit, the president of The Butte Miners' Union, a corporation, the defendant named in the within answer; that he makes this verification for and on behalf of said defendant; that he has read the said answer and knows the contents thereof and that the matters stated therein are true to his best knowledge, information and belief.

CHARLES BAXTER.

Subscribed and sworn to before me November 16th, 1915.

[Notarial Seal]

PETER BREEN,

Notary Public for the State of Montana, residing at Butte, Montana.

My commission expires June 2d, 1916. [43]

**Plaintiff's Exhibit "D"—Charter Issued by Western  
Federation of Miners of America to Aspen  
Miners' Union, No. 6.**

**CONSTITUTION AND BY-LAWS**

of the

**Western Federation of Miners**

Adopted at

**BUTTE CITY, MONT.**

May 19, 1893

Amended at Salt Lake City, Utah, 1894.

Amended at Denver, Colorado, 1895.

Amended at Denver, Colorado, 1896.

Amended at Salt Lake City, Utah, 1897.

Amended at Salt Lake City, Utah, 1898.

Amended at Salt Lake City, Utah, 1899.

Amended at Denver, Colorado, May, 1900.

Amended at Denver, Colorado, May, 1901.

Amended and revised at Denver, Colorado, November, 1901.

Amended at Denver, Colorado, May, 1902.

Amended at Denver, Colorado, May, 1903.

Amended at Denver, Colorado, May, 1904.

Amended at Salt Lake City, Utah, 1905.

Amended at Denver, Colorado, May, 1906.

Amended at Denver, Colorado, June, 1907.

Amended at Denver, Colorado, July, 1908.

Amended at Denver, Colorado, July, 1909.

Amended at Denver, Colorado, July, 1910.

Amended at Butte, Montana, July, 1911.

Amended at Victor, Colorado, July, 1912. [44]



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Amended at Denver, Colorado, July, 1910.

Amended at Butte, Montana, July, 1911.

Amended at Victor, Colorado, July, 1912.

Great Western Pub. Co. Denver [45]

PREAMBLE.

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1    1. We hold that there is a class struggle in  
2 Society and that this struggle is caused by eco-  
3 nomic conditions.

4    2. We affirm the economic condition of the  
5 producer to be that he is exploited of the wealth  
6 which he produces, being allowed to retain  
7 barely sufficient for his elementary necessities.

8    3. We hold that the class struggle will  
9 continue until the producer is recognized as  
10 the sole master of his product.

11    4. We assert that the working class, and  
12 it alone, can and must achieve its own eman-  
13 cipation.

14    5. We hold, finally, that an industrial union  
15 and the concerted political action of all wage  
16 workers, is the only method of attaining this  
17 end.

18    6. Therefore, we, the wage slaves, em-  
19 ployed in and around the mines, mills, smel-  
20 ters, tunnels, open pits and open cuts, have  
21 associated in the Western Federation of  
22 Miners. [46]

## CONSTITUTION

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### Article I.

1 Section 1. This organization shall be known  
2 as the Western Federation of Miners, and shall  
3 be composed of all persons working in and  
4 around mines, mills, smelters, tunnels, open  
5 pits and open cuts, organized into unions pay-  
6 ing per capita tax to the Federation.

7 Sec. 2. The objects of this organization  
8 shall be to unite the various persons working  
9 in and around the mines, mills, smelters, tun-  
10 nels, open pits and open cuts, into one central  
11 body, to practice those virtues that adorn so-  
12 ciety and remind man of his duty to his fellow  
13 man, the elevation of his position and the main-  
14 tenance of the rights of the workers to in-  
15 crease the wages and improve the conditions of  
16 employment of our members by legislation, con-  
17 ciliation, joint agreements or strikes.

18 Sec. 3. Whenever twenty or more persons,  
19 working as specified in Section 1 of this article,  
20 shall be found that will be self-supporting,  
21 they shall, on application, be granted a char-  
22 ter. Provided that no charter shall be issued  
23 the effect of which is to segregate the crafts  
24 engaged in the mining industry.

## Article II.

## Convention.

25 Section 1. This Federation shall hold its bi-  
26 ennial convention on the third Monday in July,  
27 at such place as the convention shall designate  
28 before adjournment of any session thereof.

29 Sec. 2. Each union shall be entitled to one  
30 delegate for one hundred members or less, and  
31 one for each additional one hundred or major-  
32 ity fraction thereof. Provided, no delegate shall  
33 in any event, either holding proxy votes or rep-  
34 resenting a union entitled to a greater number,  
35 cast more than five votes. [47]

1 Sec. 3. Representation in the biennial con-  
2 vention shall be based on the April report  
3 prior to the holding of the convention, and the  
4 January report of each year shall be an annual  
5 report; provided, in case a special convention  
6 is held, the representation shall be based on  
7 the last monthly report prior to the calling of  
8 the special convention.

9 Sec. 4. Each union shall elect a delegate or  
10 delegates and alternates to attend the biennial  
11 convention of the Federation. Such delegates  
12 and alternates shall be nominated and elected  
13 in compliance with Section 1, Article III of the  
14 By-Laws, and said election of delegates and al-  
15 ternates shall take place at the semi-annual  
16 election of all local unions, the first meeting in  
17 June. The alternate delegate shall only at-  
18 tend and be entitled to a seat in the convention

19 when the regularly elected delegate fails, re-  
20 fuses or is unable to be present to discharge  
21 his duties. To be eligible, a delegate or alter-  
22 nate must be a bona fide wage worker in the  
23 jurisdiction of his local union, or one who is  
24 employed by his local union, or the Western  
25 Federation of Miners, having a membership in  
26 good standing in the Western Federation of  
27 Miners for a period of not less than one year,  
28 immediately preceding the date of his nomina-  
29 tion; provided, however, that the provisions of  
30 this section shall not apply to the unions and  
31 members thereof which have been organized  
32 for a length of time less than that mentioned  
33 herein. Delegates shall present their creden-  
34 tials and have them passed upon before taking  
35 their seats in the convention. Delegates in at-  
36 tendance at the convention and absenting them-  
37 selves without permission from the sessions  
38 thereof shall not be entitled to their per diem  
39 for any day, or part of a day, upon which they  
40 were absent. Duplicate credentials must be in

[48]

4

1 the hands of the Secretary-Treasurer at least  
2 fifteen days prior to the meeting of the con-  
3 vention. No local union shall be entitled to  
4 representation in the convention which has not  
5 complied with the Constitution of the Federa-  
6 tion. All proxy credential certificates must be  
7 sent direct to the delegates named thereon, and  
8 the duplicate certificates to the Secretary-Treas-



9 urer at headquarters fifteen days prior to the  
10 meeting of the biennial convention.

11 Sec. 5. Delegates representing a majority  
12 of the unions comprising the Federation shall  
13 constitute a quorum.

14 Sec. 6. Ladies' Auxiliaries of the Western  
15 Federation of Miners shall be entitled to one  
16 delegate with one vote for each auxiliary in  
17 good standing and transportation expenses for  
18 said delegate shall be paid by the Federation.

#### Pay of Delegates.

19 Sec. 7. The pay of each delegate to the bi-  
20 ennial convention shall not be less than \$5.00  
21 per day, which shall be paid by the union he  
22 represents.

23 The Federation shall pay the transportation  
24 expense of one delegate from each union in  
25 good standing. Any union electing more than  
26 one delegate shall pay transportation expenses  
27 on all delegates elected above that number.  
28 Secretaries of all local unions shall insert on  
29 credential card the name of delegate entitled  
30 to mileage at headquarters.

#### Article III.

##### Nomination and Election of Officers.

31 Section 1. The officers of the Federation  
32 shall consist of the President, Vice-President,  
33 Secretary-Treasurer, and four other Executive  
34 Board members, all of whom shall be elected  
35 by a vote of the membership.

1    Sec. 2. The call, with blanks for nomina-  
2 tions, shall be issued by the Secretary-Treas-  
3 urer on the first day of March in each even  
4 numbered year. Each local may nominate one  
5 candidate for each office, but the name of no  
6 candidate shall be placed on the ballot unless  
7 nominated by at least five locals.

8    Sec. 3. The returns of the nominations  
9 must be in the hands of the Secretary-Treas-  
10 urer of the Western Federation of Miners not  
11 later than the 15th day of April; provided, that  
12 any local that cannot be reached by mail may  
13 use telegraph or other means of communica-  
14 tion.

15    Sec. 4. The Secretary-Treasurer shall im-  
16 mediately notify each nominee of his nomina-  
17 tion, and his acceptance, together with a state-  
18 ment certifying to the eligibility of the nom-  
19 inee for the office for which he is nominated  
20 according to the provisions of this Constitution,  
21 must be in the hands of the Secretary-Treas-  
22 urer not later than May 10th.

23    Sec. 5. The Secretary-Treasurer shall send  
24 to each local union a sufficient number of bal-  
25 lots for the members thereof on which shall be  
26 printed in full the names of all eligible candi-  
27 dates. The voting shall take place at the regu-  
28 lar June election of that year.

29    Sec. 6. The Secretaries of the local unions  
30 shall immediately after election send the bal-  
31 lots and returns of the election to headquar-  
32 ters, said returns to be signed by the judges of

33 election, countersigned by the Secretary and  
34 bear the seal of the local union. The returns  
35 shall be sent to headquarters in a special en-  
36 velope provided by headquarters on which  
37 shall be printed the words "Election Returns,"  
38 these returns and the ballots to be held intact  
39 until the convening of the Convention.

40 Sec. 7. At the Convention a committee of  
[50] 6

1 three shall be elected to canvass the returns,  
2 the ballots to be held intact until the close of  
3 the Convention, after which, if no contest is  
4 made, these ballots shall be destroyed.

5 Sec. 8. For the offices of President, Vice-  
6 President and Secretary-Treasurer the candi-  
7 dates receiving the highest number of votes  
8 for each of those respective offices shall be  
9 elected, and the four candidates for Executive  
10 Board members receiving the four highest  
11 number of votes shall be declared elected.

12 Sec. 9. All officers elected to be installed  
13 at the Convention or, if absent, as soon there-  
14 after as possible, and they shall take office on  
15 the 1st day of September following.

16 Sec. 10. Delegates to the American Feder-  
17 ation of Labor Convention shall be elected an-  
18 nually, according to the same provisions for  
19 the election of officers in the biennial election.

20 Sec. 11. The ..... candidates receiv-  
21 ing the ..... highest number of votes shall  
22 be declared elected.

23 Sec. 12. The ..... candidates receiv-

24 ing the next . . . . . highest number of votes  
25 shall be declared alternates.

26 Sec. 13. Delegates to the American Fed-  
27 eration of Labor shall receive the same pay as  
28 Delegates to the Western Federation of Miners'  
29 Convention.

30 Sec. 14. To be eligible to any elective  
31 office, or Delegate to the American Federation  
32 of Labor Convention, the same qualification  
33 shall be required as those provided in this  
34 Constitution for Delegates to the Western Fed-  
35 eration of Miners' Convention.

#### Recall of Officers.

36 Sec. 15. On petition for the recall of an  
37 official of the Western Federation of Miners  
38 signed by not less than ten per cent of the

7

[51]

1 membership of the Federation in good stand-  
2 ing from not less than ten local unions of the  
3 Western Federation of Miners, it shall be the  
4 imperative duty of the Executive Board to  
5 call for a referendum vote of the entire mem-  
6 bership in the manner provided for in Section  
7 10, Article IV.

### ARTICLE IV.

#### Duties of Officers.

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#### Duties of President.

8 Section 1. It is the duty of the President to  
9 preside at all meetings of the Federation, pre-  
10 serve order, enforce the Constitution and watch  
11 vigilantly over the interests and affairs of the

12 Federation. In this he shall be assisted by all  
13 of the officers of the Federation. He shall have  
14 the right to vote at the election of officers, and  
15 when the members are equally divided he shall  
16 have the deciding vote on the question under  
17 consideration. He shall sign all orders drawn  
18 by the Secretary-Treasury, in compliance with  
19 a vote of the majority at any session of the  
20 Executive Board. He shall, with the approval  
21 of the Executive Board, fill all vacancies occur-  
22 ring in the Executive Board, or in the offices  
23 of Vice-President and Secretary-Treasurer. He  
24 may, with the approval of the Executive Board,  
25 appoint such organizers as the condition of the  
26 Federation may justify. Said organizers shall  
27 at all times act under the instructions of the  
28 President, and they shall receive not less than  
29 \$100.00 per month for such time as they are  
30 actually employed, together with transporta-  
31 tion expenses, and they shall report to the of-  
32 fice of the Federation in writing at least once  
33 each week, while in the employ of the Federa-  
34 tion as organizers. The President shall visit  
35 each district once each year, and visit as many  
36 unions as the conditions of the Federation will

8.

[52]

1 permit; and he may also examine the books of  
2 any union he visits, provided he has time so  
3 to do, in order to ascertain if each union is  
4 paying its share of the maintenance of the  
5 Federation. He shall communicate with persons



6 living in places where the Federation does not  
7 exist, and have them organized, if possible. He  
8 may convene the Executive Board when, in his  
9 opinion, the affairs of the Federation will jus-  
10 tify the same; and he may, with the approval of  
11 the Executive Board, call an extra convention  
12 of the Federation, and he shall, on the written  
13 request of six members of the Executive Board  
14 or on written request of ten unions having a  
15 combined membership of 7,500, call an extra  
16 convention of the Federation. He shall be and  
17 he is hereby constituted the trustee to sell,  
18 transfer or encumber in any manner and to  
19 any extent that he deems for the best interests  
20 of the Federation, any and all real and per-  
21 sonal property, except the funds of the Western  
22 Federation of Miners, with the concurrence  
23 and under the direction of the Executive Board  
24 of the Federation, or a convention duly called  
25 and assembled, and he shall execute all such  
26 documents in manner following: The Western  
27 Federation of Miners, by . . . . ., Trustee.  
28 He shall submit a complete report of his work  
29 during the term of his office to each conven-  
30 tion, and make such recommendations as in  
31 his judgment will advance the interests of the  
32 organization. The President shall have the  
33 power, with the consent of the Executive  
34 Board, to revoke the charter of or penalize any  
35 local union for violation of the Constitution or  
36 By-Laws, or proven treachery to the principles  
37 of the Western Federation of Miners. He shall

38 receive \$5.00 per day for his services, besides  
39 such an additional amount as may be neces-  
40 sary to defray his transportation and other  
41 expenses. [53]

## 9.

## Duties of Vice-President.

1 Sec. 2. It is the duty of the Vice-President  
2 to assist the President to preserve order at  
3 all meetings and assist him in the discharge  
4 of his duties; preside during his absence, and  
5 perform the duties devolving upon the Presi-  
6 dent; and in case of vacancy occurring in the  
7 office of President, he shall ascend to the  
8 Presidency and act as such for the unexpired  
9 term.

## Duties of Secretary-Treasurer.

10 Sec. 3. It shall be the duty of the Secre-  
11 tary-Treasurer to attend all conventions of the  
12 Western Federation of Miners, and bring there-  
13 to all the necessary books, papers, and docu-  
14 ments pertaining to his office, and keep a  
15 proper and correct record of the proceedings  
16 of the convention; read all petitions, resolu-  
17 tions and communications, not in charge of a  
18 special committee, which may be submitted to  
19 the Federation, file and safely keep, unless  
20 otherwise ordered, all papers or documents  
21 which have been before the convention. At each  
22 biennial meeting of the convention he shall  
23 submit a complete report of the receipts and  
24 disbursements of the Federation for the pre-

25 ceding year, number of unions organized, num-  
26 ber in good standing and the number of unions  
27 disbanded, if any, and the cause thereof. If  
28 ordered by the convention, he shall cause to be  
29 printed duly authenticated copies of the pro-  
30 ceedings of the convention and furnish each  
31 local union with a copy thereof. He shall pre-  
32 pare, sign and seal all charters and such other  
33 papers and documents as may emanate from  
34 the Western Federation of Miners, and which  
35 are required to be duly authenticated. He  
36 shall, at the end of each quarter, send a report  
37 to each local union, showing the receipts, and  
38 the dates thereof, of all moneys received from

10.

[54]

1 the local unions for the preceding quarter. All  
2 moneys coming into his hands belonging to the  
3 Federation shall be deposited, at least twice a  
4 month, in some solvent bank or banks, and  
5 shall only be drawn out to pay indebtedness  
6 arising out of the due conducting of the busi-  
7 ness of the Federation, and then only after  
8 a bill shall have been first duly presented by  
9 the creditor, when in payment thereof a check  
10 shall be drawn and signed by him, after which  
11 he shall present it, together with the bill, to  
12 the President for his counter-signature. He  
13 shall have charge of all the funds and property  
14 of the Western Federation of Miners, and shall  
15 keep a careful and accurate account thereof, as  
16 well as an accurate account of all funds arising  
17 out of the relation of the Federation with the

18 local unions, and whenever money is received  
19 from a local union, a receipt therefor must be  
20 given or mailed to the sender. He shall promptly  
21 attend to all correspondence pertaining to his  
22 office, and within the first week in May of each  
23 year he shall send to each union which is not  
24 indebted to the Federation for moneys, which it  
25 should have paid under the Constitution, dupli-  
26 cate credentials for delegates. Upon the expi-  
27 ration of his term of office or retirement from  
28 any cause he shall faithfully account for all  
29 money or property coming into his hands and  
30 all funds or property remaining in his hands or  
31 not paid out or disposed of in the due course of  
32 the discharge of his official duties, it shall be  
33 accounted for and turned over to his successor  
34 or such other person who may be duly author-  
35 ized to take into his custody the funds or prop-  
36 erty of the Federation. For the honest and faith-  
37 ful discharge of his duties he shall give a bond  
38 in the sum of not less than \$30,000, the bond so  
39 given to be approved by the Executive Board  
40 and kept in their custody. For his services he  
41 shall receive the sum of one hundred and fifty

11.

[55]

1 (150) dollars per month, which may be paid  
2 monthly out of the funds of the Federation, in  
3 the same manner as is provided for the pay-  
4 ment of other bills and indebtedness. He shall  
5 issue a supplement to his quarterly report of  
6 all members suspended, fined or expelled dur-  
7 ing the quarter.



Executive Board.

8    Sec. 4. The Executive Board shall consti-  
9    tute the Federation board of arbitration and  
10   conciliation, and between conventions have full  
11   power to direct the workings of the Federa-  
12   tion. No representative of a union shall be en-  
13   titled to a hearing before the Executive Board  
14   without proper credentials, with the seal of  
15   the union attached thereto.

16   Sec. 5. The Executive Board shall be con-  
17   vened by the President, or by the Secretary-  
18   Treasurer, at the request of three members of  
19   the Board.

20   Sec. 6. The jurisdiction of the Western  
21   Federation of Miners shall cover the United  
22   States and its territories, and the Dominion of  
23   Canada.

24   Sec. 7. Each member of the Executive  
25   Board shall act as an organizer and he shall  
26   also be required to make such investigation  
27   relative to the condition of each local union  
28   as in his judgment may be necessary, and make  
29   a report thereof to the President of the Feder-  
30   ation on or before the 10th day of June of each  
31   year. In case of trouble arising in the juris-  
32   diction of a union, the member shall be sum-  
33   moned and given full charge in the direction  
34   or negotiations until the arrival of the Presi-  
35   dent, who shall be summoned if necessary. For  
36   all necessary services rendered in the discharge  
37   of his duties, he shall receive the sum of \$4.00



38 per day and legitimate expenses for such time  
39 as he is actually employed, together with his  
12. [56]

1 transportation expenses, and he shall at all  
2 times be subject to the orders of the President.

3 Sec. 8. The Executive Board members shall  
4 be placed on continuous pay, and kept in the  
5 field constantly, and be at all times under  
6 the direction of the President, who shall direct  
7 their actions in the field, and shall require  
8 each member to report weekly the result of his  
9 work, and to audit the books of all locals he  
10 may visit and make a thorough report on con-  
11 dition of same.

12 Sec. 9. All members of the Executive  
13 Board, and organizers employed by the Fed-  
14 eration shall submit monthly reports for publi-  
15 cation in the Miners' Magazine, these reports  
16 to contain matters of interest to the general  
17 organization.

18 Sec. 10. The Executive Board shall, on de-  
19 mand of ten or more locals, submit all such  
20 matters pertaining to such proposition to a ref-  
21 erendum vote through the Secretary-Treasurer,  
22 not later than fifteen days after receipt thereof;  
23 provided that no such referendum shall be sub-  
24 mitted which is a reversal of a former refer-  
25 endum within one year. The majority of such  
26 vote shall be binding on all parties concerned.

27 Sec. 11. The Executive Board members  
28 shall be delegates at large to the convention

29 and entitled to the same privileges as other  
30 delegates at the convention.

## ARTICLE V.

### Auditors.

31 Section 1. The President shall appoint, with  
32 the approval of the Executive Board, one or  
33 more auditors whose duty it shall be to audit  
34 the books and accounts of all unions of the  
35 Federation, and to render to the President a  
36 report of his findings in each case.

37 Sec. 2. Such auditor shall be at all times

13.

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1 under the direction of the President. He must  
2 be a competent bookkeeper and a member of  
3 the Federation in good standing. It shall also  
4 be his duty to collect for the use of the Fed-  
5 eration such statistics as may be determined  
6 by the President and Executive Board and  
7 whenever possible solicit subscriptions and  
8 advertising for the Miners' Magazine.

## ARTICLE VI.

### Revenues and Disbursements.

9 Section 1. The revenue of the Federation  
10 shall be derived from a charter fee of ten dol-  
11 lars and a per capita tax of twenty-five cents  
12 per month on all monthly dues collected in  
13 accordance with the stamp system, to be paid  
14 from the general fund of each union through  
15 the purchase of said stamps in advance, and  
16 in case of emergency such assessments, as in  
17 the judgment of the Executive Board or con-

18 vention may be necessary, the same shall be  
19 paid from the general fund, and based on the  
20 preceding monthly report previous to such as-  
21 sessment.

22 Sec. 2. Any union failing to purchase the  
23 required number of per capita and assessment  
24 stamps to stamp all membership cards, in com-  
25 pliance with the stamp system, shall be penal-  
26 ized as prescribed by Section 1, Article X.

## ARTICLE VII.

### Official Journal.

27 Section 1. The Journal shall be issued  
28 weekly under the direct supervision of the  
29 General Executive Board. The Executive Board  
30 shall have the power to appoint the Editor of  
31 the Miners' Magazine.

32 Sec. 2. The pages of the official journal  
33 shall be open to all officers and members of  
34 the organization for the discussion of social

14.

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1 affairs, industrial, economic and political ques-  
2 tions, or any other questions pertaining to the  
3 interest of the working-class. It shall endeavor  
4 to enlighten the membership of the organiza-  
5 tion on the cost of production of the various  
6 kinds of metals; viz.: iron, steel, lead, zinc  
7 and copper, and its market value. It shall  
8 endeavor to give statistics showing what wages  
9 are being paid to the miners, millmen and  
10 smeltermen and steel workers in the different  
11 states and territories in the jurisdiction of the  
12 Western Federation of Miners. It further shall

13 endeavor to demonstrate what relation there  
14 exists between one set of workers and another  
15 set of workers, especially those workers who  
16 are engaged in the production of coal, iron,  
17 steel, lead, zinc and copper, and other precious  
18 metals, and it shall at all times advocate the  
19 principles of Industrial Unionism.

## ARTICLE VIII.

### Strikes and Adjustments.

20 Section 1. It shall be unlawful for any  
21 union to enter upon a strike unless ordered  
22 by two-thirds of the votes cast upon the ques-  
23 tion; such questions shall be decided by refer-  
24 endum vote, notice of such referendum to be  
25 posted three days in advance, vote to be by  
26 ballot and polls to be open for not less than  
27 eight hours. No call shall be made for a  
28 referendum vote on a strike until after having  
29 received the approval of the Executive Board  
30 of the W. F. M.

31 Sec. 2. In case of a strike being in progress  
32 in the jurisdiction of the Federation, where a  
33 union or unions of the Federation is on strike,  
34 regularly ordered by the union or unions and  
35 the Executive Board, and in the opinion of the  
36 President and the Executive Board it becomes  
37 necessary to call out any other union or unions

15.

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1 in order to carry the strike to a successful  
2 termination, that they shall have full power to  
3 do so.

4 Sec. 3. Whenever a strike shall be approved

5 by the Executive Board and local union or  
6 unions as authorized by Section 1 of Article  
7 VIII, the President shall appoint, with the con-  
8 sent of the Executive Board, a representative  
9 of the Federation to take charge of the funds  
10 furnished by the Federation for the relief of  
11 members involved in said strike or lockout.  
12 The representative so chosen shall file a bond  
13 with the Executive Board, subject to its ap-  
14 proval, in such sum or sums as the Board may  
15 determine, he shall make complete itemized  
16 returns of all receipts and expenditures, in-  
17 cluding a list of the persons aided to the Sec-  
18 retary-Treasurer and through him to the Ex-  
19 ecutive Board.

20 Sec. 4. Local unions or groups of local  
21 unions may enter into wage agreements for a  
22 specified time, providing such agreements have  
23 the approval of the Executive Board. Nego-  
24 tiations for agreements must be made between  
25 the representative of the local or locals affect-  
26 ed, and the employers, with at least one mem-  
27 ber of the Executive Board, or representative  
28 of the general organization present.

## ARTICLE IX.

### New Unions.

29 Section 1. Whenever twenty or more non-  
30 union or union men shall be so situated within  
31 the jurisdiction of a union that the attendance  
32 at the meetings of such union would be incon-  
33 venient, they may apply to the President of the  
34 Federation for a charter. Should he consider



35 their application a proper one for the advance-  
36 ment, both of the interests of the applicants and  
37 the Federation, a charter shall be granted them

16.

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1 and their territorial jurisdiction defined. If  
2 such applicants are members they must apply  
3 to their respective unions for transfer cards,  
4 through the secretary-elect. Any union refus-  
5 ing to issue such cards shall be subject to a  
6 fine, the amount of which shall be determined  
7 by the Executive Board.

## ARTICLE X.

### Penalties.

8 Section 1. Any union failing to make cor-  
9 rect monthly reports to the Secretary-Treas-  
10 urer of the Federation, thereby evading its  
11 just share of the per capita tax and assess-  
12 ments, shall be fined for each offense a sum  
13 equal to double the amount so evaded.

14 Sec. 2. Any local union whose Secretary  
15 fails to place the required number of per capita  
16 or general assessment stamps upon a mem-  
17 ber's card shall be subject to a fine of one dol-  
18 lar for each stamp not so placed.

19 Sec. 3. Any local union whose Secretary  
20 fails to forward to the Secretary-Treasurer of  
21 the Federation properly filled out monthly and  
22 annual reports within twenty days after the  
23 same become due, shall be advertised in the  
24 Miners' Magazine. This section shall not apply  
25 to local unions in Alaska.

## ARTICLE XI.

## Duties and Privileges of Members.

26 Section 1. Each member at initiation shall  
27 pledge himself to support the Constitution of  
28 the Federation and obey all lawful orders of  
29 the Executive Board, in addition to the obli-  
30 gation required by the union of which he be-  
31 comes a member.

32 Sec. 2. If a member of a union commits an  
33 offense in violation of his obligation or against  
34 the good and welfare of the Federation, his

17

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1 union or any union of the Western Federation  
2 of Miners, the general officers, members, of the  
3 Executive Board, or any members of the Fed-  
4 eration, or in violation of the Constitution and  
5 By-Laws of the Western Federation of Miners,  
6 or affiliated unions, he shall be entitled to an  
7 impartial trial by his local union as hereinafter  
8 provided. The offense of which he is charged  
9 shall be presented in writing to his local union  
10 by the members making the charge who at the  
11 time must be a member of the Western Feder-  
12 ation of Miners in good standing, said charges  
13 shall be read by the Recording Secretary of  
14 the union, at the first regular meeting of the  
15 union after the paper containing the charges  
16 are received. When said charges are read the  
17 President shall, without discussion, appoint an  
18 impartial committee of five members of the  
19 union in good standing to investigate such

20 charges whose duty it shall be to present a  
21 copy of the charges to the member against  
22 whom the charges have been preferred, and  
23 notify him when to appear before said com-  
24 mittee for trial. Similar notice shall be served  
25 upon the member preferring the charges. This  
26 committee shall elect a chairman and secretary  
27 before proceeding to hear evidence for the  
28 plaintiff and defendant and keep a correct copy  
29 of the charges and all testimony presented and  
30 submit the same to the union with their writ-  
31 ten report signed by all members of the com-  
32 mittee. The union shall either adopt or reject  
33 the report of the committee. Either the plain-  
34 tiff or defendant shall have the right to appeal  
35 to the Executive Board of the Western Feder-  
36 ation of Miners and from that body to the en-  
37 suing convention. The Executive Board shall  
38 receive no evidence in the case except the  
39 records of the committee nor permit any wit-  
40 ness to appear for the plaintiff or defendant.  
41 Should the union fail to preserve the records  
[62] 18.

1 of the investigation as returned by the com-  
2 mittee or refuse to surrender the same to the  
3 Executive Board, upon request of the Secre-  
4 tary-Treasurer it shall be subject to whatever  
5 penalty the Executive Board may deem neces-  
6 sary to impose upon it.

7 Sec. 3. The convention shall have the power  
8 to bring any official of the Federation dele-

9 gate, or any member of the Federation before the  
10 bar of the convention for trial. The conven-  
11 tion shall choose its method of procedure,  
12 have full power to record and enforce its  
13 verdict. From its decision there shall be no  
14 appeal.

15 Sec. 4. Any one acting as a strike-breaker  
16 or scab during a strike in the jurisdiction of  
17 the Western Federation of Miners, who pro-  
18 fesses to have seen the error of his ways, may  
19 be placed on probation by the local union in-  
20 volved, or by any local union in whose juris-  
21 diction he may be employed when such charges  
22 are preferred against him, provided the local  
23 involved grants permission; provided, that  
24 this shall in no way apply to any man who  
25 has been a deputy sheriff or gun man in the  
26 employ of any corporation. Such men shall  
27 remain on probation until such time as the  
28 local union, in whose jurisdiction he is work-  
29 ing out his probation, shall declare his of-  
30 fense expiated in full by good work for the  
31 cause.

32 In case of a union being defunct, the Execu-  
33 tive Officers of the Western Federation of  
34 Miners shall be governed by this provision.  
35 The card issued on probation shall be marked  
36 "probation card."

37 Sec. 5. Whenever any member or members  
38 of a local union shall be discharged for actively  
39 participating in the affairs of the local union,



40 or of the Western Federation of Miners, or on  
41 account of his race, color, religious or political

19

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1 beliefs, it shall be the duty of the local union  
2 to investigate fully and use all means in their  
3 power to have such member or members re-  
4 instated in their former positions.

5 Sec. 6. Whenever any local or district union  
6 shall enter into any agreement or contract with  
7 their employers, the principles embodied in  
8 Section 5 of this article shall be made a part  
9 of such agreement or contract.

10 Sec. 7. Whenever a member of a local  
11 union shall become a foreman, shift boss or  
12 assume a position that cannot be termed as  
13 part of the mining industry, he shall lose all  
14 rights to a voice, vote or seat in the meetings  
15 of his local union, but may continue his mem-  
16 bership as a beneficiary member, or upon ap-  
17 plication to the Financial Secretary he may  
18 be granted a withdrawal card.

## ARTICLE XII.

### Legislation.

19 Section 1. The initiative and referendum  
20 shall govern all legislation. Whenever a local  
21 in good standing, delegate or delegation in con-  
22 vention shall, by resolution, offer an amend-  
23 ment to the Constitution and By-Laws, the same  
24 shall be considered in the biennial conven-  
25 tion, and by that body submitted to the mem-  
26 bers of the Western Federation of Miners, who



27 shall vote upon the same within sixty days.

28 All locals voting on a referendum shall use—

29 First: A blank record sheet for the names  
30 of all members voting;

31 Second: Printed ballots with the questions  
32 fully stated upon them, with the spaces, so as  
33 to vote for or against any question:

34 Third: That envelopes containing record  
35 sheets with names, report blanks, with totals  
36 of votes cast for or against all questions,  
37 should contain no other matter, and the word

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20

1 “referendum” should be marked upon the en-  
2 velope, and the same shall not be opened until  
3 the date set for compiling the votes of all  
4 locals.

5 After having received the approval of a ma-  
6 jority of the members voting upon the ques-  
7 tion, it shall receive the signature of the Presi-  
8 dent and Secretary-Treasurer, and becomes a  
9 part of the organic law. The Secretary-Treas-  
10 urer shall canvass the vote on all referendum  
11 questions and make up a return sheet, setting  
12 forth the vote of each local, and furnish all  
13 locals with a copy of the same.

### ARTICLE XIII.

#### Emergencies.

14 Section 1. Whenever a vital circumstance,  
15 not otherwise provided for, arises and the same  
16 cannot in justice be deferred until the assem-  
17 bling of the convention, the Executive Board  
18 may submit any important question so arising

19 to a referendum vote of the entire member-  
20 ship in good standing, in the manner described  
21 in Section 1, Article XII. The majority of such  
22 vote to govern in all cases submitted.

23 Sec. 2. Whenever a proposition of vital im-  
24 portance presents itself to the membership of  
25 the W. F. M., not otherwise provided for, the  
26 Executive Board shall, on demand of ten or  
27 more locals, submit all such matters pertaining  
28 to such proposition to a referendum vote  
29 through the Secretary-Treasurer, not later than  
30 fifteen days after receipt thereof; provided  
31 that no such referendum shall be submitted  
32 which is a reversal of a former referendum  
33 within one year. The majority of such vote  
34 shall be binding on all parties concerned.

35 Sec. 3. This constitution shall not be  
36 amended except by a majority vote of all dele-  
37 gates assembled in convention or by initiative

21

[65]

1 petition of at least ten locals of this organiza-  
2 tion, representing at least five per cent of the  
3 whole membership, the same to be approved  
4 by referendum vote as described in Section 1,  
5 Article XII.

22.

[66]

## ARTICLE 1.

### By-Laws.

#### Receipts and Accounts.

1. Sec. 1. Local unions shall preserve all re-  
2 ceipts issued by the Secretary-Treasurer and  
3 have the same presented to the finance com-

4 mittee at the biennial convention, through their  
5 delegates to the convention, in order to compare  
6 them with the stub book of the Secretary-Treas-  
7 urer.

#### Password.

8     Sec. 2. The President shall send to each union  
9 which has paid per capita tax and is not ninety  
10 days in arrears for assessments, a quarterly pass-  
11 word.

#### Membership Card.

12     Sec. 3. Throughout the jurisdiction of the  
13 Western Federation of Miners a uniform mem-  
14 bership card shall be used. The same shall be  
15 the stamp card system, approved by the Tenth  
16 and amended by the Sixteenth Annual Conven-  
17 tion; the form and style of said cards shall pro-  
18 vide a space wherein local Secretaries shall re-  
19 cord the amount of sick benefits received by each  
20 member. Said card shall be designed by the  
21 Executive Officers of the Western Federation of  
22 Miners.

#### Withdrawal Cards.

23     Sec. 4. If a member takes a withdrawal card  
24 from the union to which he belongs and [67]

#### 23

1 goes to work as specified in Section 1, Article I, of  
2 the Constitution, where there is a union of the  
3 Federation, he shall at once deposit his card in  
4 that union; failing to do so, he shall be held for  
5 dues and assessments from the time he starts to  
6 work by the union within whose jurisdiction he  
7 may be employed.

8     Sec. 5. No withdrawal card shall be issued to  
9 any member of the W. F. M. except such mem-  
10 bers who are actually engaged in some occupa-  
11 tion not included in the jurisdiction of the W.  
12 F. M., or one who permanently retires from the  
13 occupation specified in Article I of the Constitu-  
14 tion. All dues and assessments must be paid for  
15 the month in which the withdrawal card is is-  
16 sued.

17     Sec. 6. Local unions of the Federation shall  
18 have full jurisdiction over all members who  
19 are permanent residents of their local districts,  
20 subject, however, to the right of appeal de-  
21 scribed in Section 2, Article XI, of the Constitu-  
22 tion.

23     Sec. 7. Local unions shall have power to name  
24 the amount to be collected as a reinstatement fee  
25 from members six months or more in arrears for  
26 dues and assessments.

27     Sec. 8. Secretaries shall place due stamps on  
28 members' cards for back dues collected for re-  
29 instatement or otherwise.

#### Interchangeable Cards.

30     Sec. 9. Transfer cards and withdrawal cards  
31 issued by any chartered labor organization shall  
32 be accepted by local unions of the Western Fed-  
33 eration of Miners, subject to the rules and qualifi-  
34 cations governing members of such locals of the  
35 Western Federation of Miners.

#### Transfer.

36     Sec. 10. Any member leaving the jurisdiction  
37 of his union and going to work in the jurisdiction

1 of another union of the Federation shall im-  
2 mediately deposit his membership card with  
3 the Financial Secretary and pay up all arrear-  
4 ages. The Financial Secretary receiving the  
5 member's card shall immediately notify the  
6 union of which the member has a card, so that  
7 the member's account can be closed in the for-  
8 mer union; and the failure upon the part of  
9 the Financial Secretary to notify the union  
10 within fifteen days shall subject him to a fine  
11 of not less than one dollar nor more than five.  
12 All arrearages collected (other than local *as-*  
13 assessments) shall belong to the union receiv-  
14 ing the membership card and all advance dues  
15 which may have been paid shall be remitted;  
16 provided, however, that no advance dues shall  
17 be requested for the month in which transfer  
18 is made. Any member in good standing trans-  
19 ferring from one local to another, upon signing  
20 the Constitution, shall be entitled to all the  
21 rights and benefits of that local.

22 Sec. 11. Any member working within the  
23 jurisdiction of a local union and refusing to de-  
24 posit his card, shall be subject to a fine of not  
25 less than \$1.00 nor more than \$50.00, said fine  
26 to be left to the discretion of the local union.

27 Sec. 12. When a member of a local union  
28 goes to work within the jurisdiction of another  
29 and refuses to deposit his card, it shall be its  
30 duty to place a fine against him and suspend  
31 him from any benefits whatsoever. Any Secre-



32 tary accepting dues from a member who is in  
33 the jurisdiction of another local shall be sub-  
34 ject to a fine of not less than \$1.00 nor more  
35 than \$5.00.

## ARTICLE II.

### Supplies.

36 Section 1. All withdrawal and notification  
37 cards of the Federation shall be made of uni-  
38 form size, with stub attachment. [69]

### 25

1 Sec. 2. The Federation has adopted, for  
2 the sake of uniformity, the following supplies,  
3 which must be procured from the Secretary-  
4 Treasurer, except in the Dominion of Canada,  
5 where blanks shall be printed to conform with  
6 the laws and usages of that country, as well  
7 as in conformity with this Constitution, and  
8 that the same may be printed in the Dominion  
9 of Canada, viz.: Constitutions, withdrawal  
10 cards, notification cards, quarterly report  
11 blanks, blank bonds for officers of unions, ap-  
12 plication blanks, ledger, day book and cash  
13 book, and that it be imperative on the part of  
14 all locals to use this system of bookkeeping.  
15 Provided, all membership cards and the auth-  
16 orized metal emblem of the Federation shall be  
17 procured from the Secretary-Treasurer of the  
18 Federation.

## ARTICLE III.

### Nominations, Elections and Installations of Officers.

19 Sec. 1. Nominations of officers in local

20 unions shall be made from the floor. Nomina-  
21 tions shall remain open for three regular meet-  
22 ings prior to election, when each Recording  
23 Secretary shall, within ten days thereafter,  
24 forward the names of all officers elected to the  
25 Secretary-Treasurer of the Federation, who  
26 shall compile a directory of the same and  
27 forward a copy of these directories to each  
28 local union. It shall be optional with each  
29 local union as to whether it shall hold annual  
30 or semi-annual elections. Installation of offi-  
31 cers for local unions shall not take place until  
32 the first meeting in July or in January.

#### Balloting.

33 Sec. 2. All unions shall, on the demand of  
34 five or more members in good standing, take a  
[70] 26

1 secret ballot upon any question coming before  
2 the union.

### ARTICLE IV.

#### Jurisdiction.

3 Section 1. The jurisdiction of the Federa-  
4 tion shall extend to all states and territories  
5 and the Dominion of Canada as described in  
6 Section 6, Article IV, of the Constitution.

#### District Unions.

7 Sec. 2. Where a majority of members vot-  
8 ing in a district or state deem it necessary,  
9 they may organize a district or state union for  
10 the purpose of doing business for the district  
11 or state. Such unions shall apply to the Fed-  
12 eration for, and receive a special charter, said

13 charter to be issued at cost. Such district or  
14 state union shall be subordinate to the Feder-  
15 ation, but shall be a higher authority than the  
16 local unions of the Federation in its jurisdic-  
17 tion. All local unions of the Federation with-  
18 in the jurisdiction of a district or state union  
19 shall be a member of said district or state  
20 union and recognize the authority of same.

#### Defunct Unions.

21 Sec. 3. When any local union has a mem-  
22 bership of less than ten members in good  
23 standing, the charter of such local may be con-  
24 sidered defunct, and surrender its charter and  
25 books to the Federation; and any member of  
26 the said union becoming desirous of joining  
27 another union of the Western Federation of  
28 Miners shall, by paying the dues and assess-  
29 ments he owed in his former union up to the  
30 time the books were turned over to the Fed-  
31 eration, be transferred to the union to which  
32 he makes application. [71]

#### 27

1 Sec. 4. The property of defunct unions shall  
2 be held in trust by the Federation, and where  
3 local unions are reorganized within a period  
4 of one year, comprising of twenty or more  
5 members of the former local the property so  
6 held in trust shall be returned to the reorgan-  
7 ized local, but when the locals are reorganized  
8 with less than twenty members of the former  
9 local, they shall have no claim on the property  
10 of the defunct union. At the expiration of one

11 year from the date of the local going defunct,  
12 the property shall cease to be held in trust and  
13 become the property of the Federation.

14 Sec. 5. Where two or more locals are situ-  
15 ated in the same locality or district, and one or  
16 more locals become weakened by loss of mem-  
17 bers or otherwise, they may, by a majority  
18 vote of each local interested, consolidate. All  
19 money and property shall belong to the union  
20 so consolidated, except the charter or charters  
21 of the locals ceasing to exist, said charters to  
22 be forwarded to headquarters immediately.  
23 The unions so consolidated shall be held for  
24 all existing indebtedness.

#### ARTICLE V.

25 Section 1. Each local Financial Secretary  
26 must keep a record of all members that are  
27 expelled from local unions, and when a person  
28 is proposed for admittance into any local of  
29 the Western Federation of Miners, the Finan-  
30 cial Secretary must first look at the list re-  
31 ported by the Secretary-Treasurer of the Fed-  
32 eration and then report to his union the result  
33 of his investigation.

#### Correspondence.

34 Sec. 2. Each Secretary of the local union  
35 shall be required to keep a copy of all cor-  
36 respondence in a copying book suitable for that  
37 purpose. [72]

## ARTICLE VI.

## Fines and Penalties.

1 Section 1. Any member who is under the  
2 influence of liquor, appearing as a delegate at  
3 any convention of the Western Federation of  
4 Miners, or failing to answer roll call without  
5 being excused by the President, shall be fined  
6 for the first offense the sum of one dollar; for  
7 the second offense the sum of two dollars; for  
8 the third offense the sum of five dollars, and  
9 any delegate or delegates who shall have been  
10 guilty of such an offense shall be censured and  
11 reprimanded by the President, and the union  
12 to which he or they may belong shall be noti-  
13 fied of his action.

---

ORDER OF BUSINESS.

1. Call the meeting to order.
2. Warden, secure the door.
3. Presentation of credentials.
4. Appointment of committees.
5. Roll call.
6. Reading of minutes of previous meeting.
7. Communications and correspondence.
8. Bills.
9. Reports of officers.
10. Reports of standing committees.
11. Special committees.
12. Unfinished business.
13. New business.



14. Election of officers.
15. Good and welfare of the Federation.
16. Installation of officers.
17. Adjournment. [73]

## 29

## RULES OF ORDER.

1 During the continuance of the meeting si-  
2 lence must be observed, the officers and mem-  
3 bers retaining their respective seats, and no  
4 one leaving the room without permission of  
5 the President or Vice-President.

6 No member shall, by conversation or other-  
7 wise, interrupt the business of the Federation  
8 or refuse to obey the chair.

9 The President, while presiding, will state  
10 every question coming before the Federation,  
11 and immediately before putting it to a vote  
12 shall ask: "Are you ready for the question?"  
13 Should no member rise to speak, or by silence  
14 indicate their readiness, he shall rise to state  
15 the question, and after he has risen no member  
16 shall be permitted to speak upon it. He shall  
17 announce the result or decision of the Feder-  
18 ation upon all subjects.

19 Every member, when he speaks or offers a  
20 motion, shall rise and respectfully address the  
21 presiding officer. While speaking he shall con-  
22 fine himself to the subject under debate, avoid-  
23 ing all personalities and indecorous language,  
24 as well as any reflections upon the union or its  
25 members.

26 Should two or more members rise to speak

27 at the same time, the chair shall decide who is  
28 entitled to the floor.

29 No member shall disturb another in his  
30 speech unless to call him to order for words  
31 spoken.

32 If a member, while speaking, shall be called  
33 to order, at the request of the chair, he shall  
34 cease speaking and take his seat until the

30

[74]

1 question of order is determined, when, if per-  
2 mitted, he may again proceed.

3 No member shall speak more than once on  
4 the same question until all the members wish-  
5 ing to speak shall have had the opportunity to  
6 do so, nor more than twice without the per-  
7 mission of the chair.

8 When any communication, petition or mem-  
9 orial is presented, before it is read a brief  
10 statement of its contents shall be made by the  
11 introducer to the chair.

12 No motion shall be subject to action unless  
13 seconded and stated by the chair.

14 Any member may call for a division on a  
15 question when the sense will admit it.

16 When a question is before the Federation  
17 no motion shall be received unless to close, the  
18 previous question, to lay on the table, to post-  
19 pone indefinitely, to refer, to amend, and shall  
20 have precedence in the order herein arranged  
21 —the first three of which shall be decided  
22 without debate.

23 After any question, except one of indefinite

24 postponement or one the result of which the  
25 Federation cannot reverse, has been decided,  
26 any member who voted in the majority may, at  
27 the same meeting move a reconsideration  
28 thereof.

29 No amendments shall be received except  
30 they are in writing.

31 All questions not provided for by the Con-  
32 stitution, By-Laws, Rules of Order, or by the  
33 General Laws of the Federation, shall be de-  
34 termined by a majority of the members at a  
35 regular meeting.

36 These rules may be suspended for a special  
37 purpose by a vote of two-thirds of the mem-  
38 bers present.

39 Roberts' Rules of Order shall govern the  
40 proceedings of the Federation in the absence  
41 of any rules not herein provided for.

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**Exhibit "E" to Answer—Amended Complaint,  
Western Federation of Miners et al., v. Scahill  
et al.**

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County of  
Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, and CHARLES  
H. MOYER, President of the Western Fed-  
eration of Miners, a Voluntary Organization  
and Association of Persons With Its Head-  
quarters in the City and County of Denver  
and State of Colorado; GUY E. MILLER,  
and ED. O'BYRNE,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

**Amended Complaint.**

Plaintiffs complain of defendants, leave of court  
being had and obtained to file this Amended Com-  
plaint and for cause of action allege:

1. That the Western Federation of Miners is a  
voluntary organization of persons engaged in the  
mining, milling and reduction of ores and minerals,

and about the mining, milling and reduction of ores and minerals, with its headquarters in the City and County of Denver, in the State of Colorado; and that Chalers H. Moyer is the duly elected, qualified and acting president of said Western Federation of Miners; and that said Western Federation of Miners is made up of different local unions, or organizations, in different states and territories in the United States of America, the members of which local unions are members of the Western Federation of Miners; and that the said Western Federation of Miners issues to the different local unions which are parts of the Western Federation of Miners, a charter for the regulation and conduct of said different local unions, and has a constitution and by-laws therefor.

II. That The Butte Miners' Union is a corporation existing under [77] and by virtue of the laws of the State of Montana, the membership of which corporation is composed of persons engaged in mining, milling, smelting, and handling of ores and minerals and that the members of said Butte Miners' Union, a corporation are members of the Western Federation of Miners; and that on the 22d day of September, A. D. 1914, The Butte Miners' Union, a corporation, as aforesaid, and the members thereof, by and through its said members and officers, petitioned the said Western Federation of Miners, a voluntary association and organization, as aforesaid, for the issuance to said Butte Miners' Union of a charter, a copy of which petition is hereunto annexed, marked exhibit "A," and made a

part of this complaint; that thereafter, on the 3d day of October, 1914, under and by virtue of the constitution and by-laws of the Western Federation of Miners, a voluntary organization and association, as aforesaid, Western Federation of Miners issued to the Butte Miners' Union, a corporation, and its members, a charter, a copy of which said charter is hereunto annexed, marked exhibit "B," and made a part of this complaint, which said charter was accepted by the said Butte Miners' Union, a corporation and its members.

III. That there is a provision of the constitution of the Western Federation of Miners for the government of said Western Federation of Miners and the local unions belonging to said Western Federation of Miners and the membership thereof, as follows, to wit:

"AMENDMENT.

Amend by adding to the 'Duties of President,' in Art. 4, Sec. 1, after the word 'Miners', page 9, line 37:

The President shall have power on petition of ten per cent of the members in good standing in their respective locals making charges in writing against their local officers to take complete charge of the local's affairs, and if the charges are proven he shall call a special election within 30 days and place local's [78] affairs on a business basis before relinquishing to local's officials."

That The Butte Miners' Union, by and through the vote of its membership, at an election duly and regularly held, adopted the aforesaid provision of

the Constitution of the Western Federation of Miners as a part of the rules and regulations for the government of the Butte Miners' Union and membership thereof.

IV. That thereafter and on the 23d day of November, A. D. 1914, and in accordance with said provision of said constitution and by-laws hereinbefore set forth, charges in writing, a copy of which said charges is hereunto annexed, marked exhibit "C," and made a part of this Complaint were preferred against the officers of the Butte Miners' Union, a corporation, who are the defendants above named, to wit: Martin Scahill, President; Patrick Lee, Secretary-Treasurer; Patrick O'Neill, Recording Secretary; Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, Trustees, and were presented to Chas. H. Moyer, President of the Western Federation of Miners, and Chas. H. Moyer, President of the Western Federation of Miners, was petitioned to take complete charge of the affairs of the Butte Miners' Union a corporation, in accordance with the aforesaid provisions of the constitution of the Western Federation of Miners.

IV-a. That the said charges hereinbefore set forth are signed by ten per cent (10%) of the membership of the Butte Miners' Union, a corporation, and that the said charges are based upon the conduct and actions of the defendants herein named, the said conduct and actions being that the said defendants have wilfully, unlawfully, wrongfully and without warrant of authority, lavishly, improvidently, and without due regard to the rights of the member-

ship of The Butte Miners' Union, a corporation, expended, paid out, and disposed of the money belonging to The Butte Miners' Union; and have failed and neglected and refused to properly account for the money so expended, [79] and have allowed and permitted persons not members in good standing of The Butte Miners' Union, a corporation, to participate in the meetings of The Butte Miners' Union, a corporation, to vote therein and to have a voice therein in the government and affairs of The Butte Miners' Union, a corporation; that they continually expended the money of The Butte Miners' Union for unnecessary purposes and have paid out, in this connection, unnecessary and exorbitant salaries to divers and sundry persons without due regard for the welfare and protection of the interests of the membership of The Butte Miners' Union, a corporation; that they have, by their acts, wrongfully, almost completely depleted the sick relief fund of The Butte Miners' Union, a corporation, which fund is for the use and benefit of sick and disabled members of The Butte Miners' Union in good standing; and that said defendants still persist in doing the above-mentioned acts and in preventing these plaintiffs, and particularly the plaintiff Ed. O'Byrne, and the members of The Butte Miners' Union, a corporation, who signed the charges and petition against said officers, from having its affairs and conduct of The Butte Miners' Union, a corporation, run and conducted in a just and lawful manner in accordance with the by-laws and constitution, for the government thereof.



V. That thereafter, on the 8th day of December, 1914, Guy E. Miller, one of the plaintiffs above named, as the true and lawful attorney in fact of Charles H. Moyer, President of the Western Federation of Miners, as aforesaid, holding a power of attorney from said Charles H. Moyer, President of the Western Federation of Miners, as aforesaid, a copy of which power of attorney is hereunto annexed, marked exhibit "D," and made a part of this complaint, at a regular meeting of the members of The Butte Miners' Union a corporation, presented the said charges and demanded that the aforesaid officers of said union to wit: Martin Seahill, President; Patrick Lee, Secretary-Treasurer; Patrick O'Neill, Recording [80] Secretary; Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, Trustees; conform to said by-laws and constitution of the Western Federation of Miners, and The Butte Miners' Union and place in the hands of said Charles H. Moyer, President, as aforesaid, pending the determination of the above-mentioned charges and petition and the election of new officers, if said charges shall be found to be true, the affairs and business of said Butte Miners' Union, a corporation, as aforesaid, and the books and property thereof, for the purpose of safe-keeping and preservation, in the interest of said members of the corporation. That notwithstanding the presentation of said charges and petition as aforesaid, and the provisions of the constitution and by-laws, as aforesaid, of the said Western Federation of Miners, and of said Butte Miners' Union, a corporation, the aforesaid

defendants have failed, refused, and neglected, and have prevented, and are now preventing and threaten to continue to prevent the said Charles H. Moyer, President of said Western Federation of Miners, as aforesaid, from taking charge of, control of, the affairs and business of The Butte Miners' Union, a corporation as aforesaid, pending the determination of the said charges and the election of new officers by the members of said Butte Miners' Union, if the said charges shall be found true; and that the said Martin Scahill, President, Patrick Lee, Secretary-Treasurer, Patrick O'Neill, Recording Secretary, Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, Trustees, continue to use the property of The Butte Miners' Union a corporation, as aforesaid, to draw its funds and moneys from the banks in which the same has been deposited, and to handle and take charge of the property and money, and prevent and threaten to continue to prevent the said Charles H. Moyer, President of the Western Federation of Miners, and his duly appointed, qualified and acting attorney in fact, from taking possession thereof, in accordance with the hereinbefore set forth charter, constitution and by-laws [81] of said Western Federation of Miners and Butte Miners' Union, a corporation, all to the irreparable loss and injury of the Western Federation of Miners, a voluntary association as aforesaid, and the membership of The Butte Miners' Union, a corporation of which Ed. O'Byrne, one of the plaintiffs above named is, and at all times herein mentioned has been, a member in good standing.

VI. That the defendants are without any money or means with which to respond in damages herein and to make good any loss and injury that has occurred, and will occur, through their actions herein-before set forth.

VII. That Ed. O'Byrne, one of the plaintiffs herein, is a member of The Butte Miners' Union, a corporation, and one of the persons who signed the charges against the defendants above named, the officers of The Butte Miners' Union, a corporation, and that he is personally interested in the affairs and conduct of The Butte Miners' Union, a corporation, having paid his dues and assessments thereto, and that he is a member of the Western Federation of Miners, a voluntary association and organization, as aforesaid, and interested in its affairs.

VIII. That Guy E. Miller, one of the plaintiffs herein, is a member of the Western Federation of Miners, and interested in its affairs.

IX. That there is no plain, speedy, or adequate remedy at law whereby the rights of these plaintiffs and of the membership of The Butte Miners' Union, a corporation, and of the Western Federation of Miners, a voluntary organization and association, as aforesaid, can be protected.

WHEREFORE, Plaintiffs pray judgment of this Honorable Court that this court make its order temporarily restraining the defendants herein, their agents, servants, employees and attorneys, or any one acting for or in their behalf, or under their direction, from in any way interfering with these plaintiffs in the possession [82] and control of the property of The Butte Miners' Union, a corporation, or the pros-

ecution of the business and affairs of The Butte Miners' Union, a corporation; and that this court fix a day and time certain wherein the defendants herein, and each and all of them, shall be commanded to show cause, if any they have, before this Honorable Court, why they and their agents, servants, and employees and attorneys and every one acting for and in their behalf, or under their direction and control, should not be permanently restrained and enjoined from in any way interfering with these plaintiffs and the members of the plaintiff organization in the possession and control of the property and affairs of The Butte Miners' Union, a corporation, pending the determination of the charges filed against the officers of said corporation and the holding and conducting of an election by the members of said corporation for new officers if the charges in this complaint set forth are found and proven to be true, and from putting the business of The Butte Miners' Union, a corporation, on a business basis.

CANNING & GEAGAN and  
E. P. KELLY,

Attorneys for Plaintiffs.

State of Montana,  
County of Silver Bow,—ss.

Guy E. Miller and Ed. O'Byrne, being first duly sworn, say: That they are two of the plaintiffs above named; that they have read the complaint, know the contents thereof, and that the facts, matters and things therein stated are true of their own knowledge.

GUY E. MILLER,  
ED. O'BYRNE,



Subscribed and sworn to before me this 8th day of Feb. A. D. 1915.

[Notarial Seal] P. E. GEAGAN,  
Notary Public for the State of Montana; residing at  
Butte, [83] Montana.

My commission expires Jan. 13, 1918.

EXHIBIT "A."

To the President of the Western Federation of Miners, Denham Building, Denver, Colorado.

The Butte Miners' Union, a corporation, organized and existing under and by authority of the laws of the state of Montana, at a regular meeting held at the headquarters of the said corporation, 217 North Main St., Butte, Montana, on the 22d day of September, 1914, by a majority vote of its membership present at said meeting passed a resolution directing and instructing its president, secretary and board of directors or trustees, to apply to the Western Federation of Miners for a reissuance of a charter to the said corporation to take the place of its first charter recently lost or destroyed, and said resolution empowered and authorized its aforesaid officers to take all necessary steps and do all necessary things in order to procure said charter.

Now, therefore we, Frank O'Connor, President, Pat. O'Neill, Secretary, and Mike A. Sullivan, James Walsh, James Ryan, Frank Martin, Pat Quigley, constituting the board of Directors or Trustees of the said corporation, pursuant to the said resolution and by authority thereof, hereby make application to you for the re-issuance of a charter for a local union to be issued to the said corporation, which shall



be known as The Butte Miners' Union No. 1, Western Federation of Miners, which shall take the place of its first charter recently lost or destroyed.

It is hereby agreed in the acceptance of the said charter that the aforesaid corporation shall conform to all of its provisions and that the same are fully understood, and to the constitution, by-laws, rules and regulations of the Western Federation of Miners.

IN TESTIMONY WHEREOF, the said corporation has caused this application to be signed by its President, Secretary and Board of [84] Directors or Trustees, and its corporate seal to be attached thereto this 22d day of September, 1914.

THE BUTTE MINERS' UNION, a Corporation,

FRANK O'CONNOR,

President.

PAT O'NEILL,

Secretary.

M. A. SULLIVAN,

JAMES WALSH,

JAS. J. RYAN,

Board of Directors or Trustees.

EXHIBIT "B."

WESTERN FEDERATION OF MINERS  
CHARTER.

KNOW ALL MEN BY THESE PRESENTS,  
That acting under the authority vested in us by the laws of the above-named organization, we, the undersigned, do hereby grant this Charter to Butte Miners' Union, a corporation, to be hereafter known and

designated as the BUTTE MINERS' UNION NO. 1, WESTERN FEDERATION OF MINERS.

TO BE HELD BY THEM AND THEIR SUCCESSORS, And the aforesaid Union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership, any person or persons lawfully proposed and elected in accordance with the constitution, rules and regulations of the Western Federation of Miners. It is hereby agreed in the acceptance of this Charter that the aforesaid union shall conform to the constitution, rules and regulations, and in default thereof, this charter may be revoked and the union suspended from all rights, and benefits, according to the laws of the Western Federation of Miners, and further, it is agreed that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners. [85]

In consideration of the due and faithful performance of the foregoing stipulations, the Western Federation of Miners do bind themselves to sustain said union in the exercise of all rights, privileges and benefits, as a local union under its protection.

IN WITNESS WHEREOF, we have subscribed our names and affixed our seal of the Western Federation of Miners this Third day of October, 1914.

The Butte Miners' Union, organized June 13, 1878.

Original W. F. M. Charter dated May 15, 1893.

CHAS. H. MOYER,

President.

ERNEST MILLS,

Secretary-Treasurer.

EXHIBIT "C."

Butte, Mont., Nov. 23d, 1914.

To Chas. H. Moyer, President of the Western Federation of Miners, Denver, Colo.

We, the undersigned members of Butte Miners' Union, No. 1, W. F. of M. hereby petition you under the constitution to take full and complete charge of the affairs of this union and submit as our reasons for requesting such action, that the officials of said union have been and are acting in violation of the constitution of Butte Miners Union and of the Western Federation of Miners and further that there has been utter inefficiency and disregard of the best interests of the organization and the principles of unionism.

We submit the following: (1) Violation of the constitution by packing the meeting with men in arrears, some of whose names were not on the books of the union, giving them a voice and vote in matters of great importance. (2) Refusal of Secretary-Treasurer, aided and abetted by the president to submit books and accounts for examination. (3) Failure of walking delegates to render any report of the union or put forth reasonable efforts to increase the membership of this union. (4) Stamps on members cards without entry [86] on books of receipt. (6) Willful waste in the disbursing of funds, es-

pecially the sick relief, the constitutional notice to secretary not being complied with. (7) That indifference to the welfare of the organization is clearly manifested by the failure of various officials and trustees to keep in good standing.

Tim. J. Lynch,	John Toomey,
A. M. Maletto,	Dennis Murphy,
John Pearson,	W. H. Schauf,
Wm. Louma,	J. C. Lowney,
Mike Harrington,	F. M. Shields,
Varles Baxter,	Oskar Karri,
Ed O'Byrne,	Dan O'Leary,
Jalmer Koskinen,	Jacob Oliver,
E. G. Huntley,	Patrick King.

#### EXHIBIT "D."

#### POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That I, Charles H. Moyer, President of the Western Federation of Miners, a voluntary organization with its headquarters in the City and County of Denver, State of Colorado acting under the authority and power vested in me by the constitution of the Western Federation of Miners have made, constituted and appointed, and by these presents do make, constitute and appoint Guy E. Miller, of the City of Butte, State of Montana, my true and lawful attorney, for me and in my name, place and stead, to take complete charge of the affairs including all books and papers, of the Butte Miners' Union, a corporation existing under and by authority of the laws of the State of Montana, whose headquarters are at 217 North Main Street, Butte, Montana, and to receive and file any

and all charges that may be made against the local officers of said Union and to transmit the same or a copy thereof, to me, and to collect and receive any and all moneys which shall be due, owing and payable and belonging to the said Butte Miners' Union; and in my name represent before any judge or minister of the law whatsoever, and in any court or courts of [87] judicature, and on my behalf prosecute for any debt, fraud and any manner of claims that the said Butte Miners' Union may have against any person or persons and to answer, and defend all actions or causes whatsoever relating to the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming, and holding valid all that my said attorney shall lawfully do or cause to be done by virtue of these presents.

Witness my hand and seal at Denver, Colo., this 7th day of December, A. D. 1914.

CHAS. H. MOYER,

President Western Federation of Miners.

State of Colorado,

City and County of Denver,—ss.

I, Fannie N. Patterson, a Notary Public in and for the City, County and State aforesaid, do hereby certify that Charles H. Moyer who is personally known to me to be the person whose name is subscribed to the within power of attorney, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing



as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 7th day of December, A. D. 1914.

My commission expires May 6th, 1915.

[Notarial Seal] FANNIE M. PATTERSON,

Notary Public. [88]

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**Exhibit "F" to Answer—Answer to Amended Complaint—Western Federation of Miners et al. vs. Scahill et al.**

*In the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organization, Association of Persons With its Headquarters in the City and County of Denver, State of Colorado, and Charles H. MOYER, President of the Western Federation of Miners, a Voluntary Organization and Association of Persons, With its Headquarters in the City and County of Denver, and State of Colorado; GUY E. MILLER and ED O'BYRNE,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN, JAMES RYAN, JAMES WALSH and PATRICK QUIGLEY,

Defendants.

### **Answer to Amended Complaint.**

Come now the above-named defendants, Martin Seahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, and answering the Complaint of plaintiff on file herein, admit, deny and allege as follows, to wit:

1. Deny all the allegations contained in paragraph 1 of plaintiffs' Amended Complaint.

2. Admits all the allegations contained in paragraph II of plaintiffs' Amended Complaint.

3. Answering paragraph III of plaintiff's Amended Complaint these defendants deny all the allegations contained in said paragraph III.

4. Deny any knowledge or information thereof sufficient to form a belief as to the allegations set forth in paragraph IV of plaintiffs' Amended Complaint.

5. Deny all of the allegations contained in paragraph IV-A of plaintiffs' Amended Complaint.

6. Deny each and all of the allegations contained in paragraph V of plaintiffs' Amended Complaint, save and except that these answering defendants have, for a long time past, and are still, [89] attempting to prevent the said Charles H. Moyer, mentioned in said paragraph, or any other person acting in collusion with him or representing him, from getting possession or control of the moneys or property of The Butte Miners' Union, a corporation.

7. Deny all the allegations contained in paragraph VI of plaintiffs' Amended Complaint.

8. Admits that the plaintiff, Ed. O'Bryne is a

member of The Butte Miners' Union, a Corporation, as set forth in paragraph VII of plaintiffs' Amended Complaint, but save as is herein admitted, these answering defendants deny any knowledge or information thereof sufficient to form a belief as to all other allegations set forth in said paragraph VII of plaintiffs' Amended Complaint.

9. Deny all the allegations contained in paragraph VIII of plaintiffs' Amended Complaint.

10. Deny all the allegations contained in paragraph IX of plaintiffs' Amended Complaint.

11. Save as is herein specifically admitted or denied these answering defendants deny each and every allegation contained in plaintiffs' Amended Complaint.

WHEREFORE having fully answered, these answering defendants pray that the said plaintiffs take nothing by this action and that they be given their costs herein expended.

Further answering and as an affirmative defense to the Amended Complaint of plaintiffs, these answering defendants allege:

1. That they are now and have been during all of the times herein mentioned in plaintiffs' Amended Complaint members in good standing of the Butte Miners' Union, a Corporation.

2. That the said The Butte Miners' Union, now is and has been during all of the times herein mentioned in plaintiffs' Amended Complaint, and ever since the 4th day of May, 1881, a corporation duly organized and existing under and by virtue of the laws of the State of Montana, with its place of busi-

ness in the City of Butte, [90] County of Silver Bow, State of Montana.

3. That the defendant Martin Scahill is now and has been during all the times herein mentioned in plaintiffs' Amended Complaint, the duly elected, qualified and acting president of The Butte Miners' Union, a Corporation; That the defendant, Patrick Lee, during all of the times herein mentioned in plaintiffs' Amended Complaint has been, and now is the duly elected, qualified and acting secretary-treasurer of The Butte Miners' Union, a corporation; That the defendant Patrick O'Neill is now and has been during all of the times herein mentioned, the duly elected, qualified and acting recording secretary of The Butte Miners' Union, a corporation; That the defendant Mike A. Sullivan, is now and has been, during all of the times herein mentioned in the Amended Complaint of plaintiffs, the duly elected, qualified and acting chairman of the Board of Trustees of The Butte Miners' Union, a corporation; That the defendant Patrick Guigley, is now and has been during all of the times herein mentioned, a duly elected, qualified and acting member of the Board of Trustees of The Butte Miners' Union, a corporation; That the defendants James Ryan and James Walsh were, at the commencement of this action, duly elected, qualified and acting members of the Board of Trustees of The Butte Miners' Union, a Corporation.

4. That the above-named plaintiff, Western Federation of Miners, an alleged voluntary organization association of persons, with its headquarters in the

City and County of Denver, State of Colorado, was at one time a *bona fide* labor organization composed of various local unions or organizations in different states and territories in the United States of America, also in Canada.

5. That on or about the —— day of May, 1893, The Butte Miners' Union, a corporation, applied for a charter in said Western Federation of Miners and that thereafter, on or about the 15th day of May, 1893, a charter was duly issued to The Butte Miners' Union, a corporation, as aforesaid. [91]

6. That thereafter, on the 13th day of June, 1914, the charter issued by the Western Federation of Miners to The Butte Miners' Union, a corporation, was destroyed and that thereafter, on or about the 22d day of September, 1914, the said The Butte Miners' Union, a corporation, applied to the plaintiff, Western Federation of Miners for a duplicate of said charter, which was duly issued to The Butte Miners' Union, a corporation, on or about the 3d day of October, 1914.

7. That between the 15th day of May, 1893, the date of issuance of the first charter and the 1st day of December, 1914, The Butte Miners' Union, a corporation, as aforesaid, has paid to the plaintiff, Western Federation of Miners, as per capita tax, assessments levied and donations appealed for, a sum in excess of One Million (\$1,000,000) Dollars.

8. That the said The Butte Miners' Union, a corporation, between the 1st day of July, 1913, and the first day of July, 1914, paid assessments to the plaintiff, Western Federation of Miners, One Hun-



dred, Thirty-eight Thousand Eight Hundred and Twenty-five and 60/100 (\$138,825.60) Dollars, donations, Twenty-one Hundred (\$2100) Dollars, per capita, Seventeen Thousand Five Hundred (\$17,500) Dollars, Supplies Five Hundred (\$500) Dollars, amounting to the total sum of One Hundred Fifty-eight Thousand Nine Hundred and Twenty-five and 60/100 (\$158,925.60) Dollars.

9. That between January 5, 1914, and June 15th, of said year, in dues, assessments and donations, the said plaintiff Western Federation of Miners, received the following sums of Money from The Butte Miners' Union:

January	5	.....	\$ 2000.00
"	19	.....	10000.00
"	22	.....	10000.00
February	4	.....	5000.00
"	5	.....	1250.00
"	16	.....	10000.00
"	23	.....	1250.00
"	23	.....	100.00
March	6	.....	8000.00
"	23	.....	10000.00
"	23	.....	1250.00

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April	16	.....	6000.00
"	16	.....	450.00
"	22	.....	8000.00
May	20	.....	1000.00
June	4	.....	1250.00
"	15	.....	3000.00

making a total of Seventy-eight Thousand, Five Hundred and Fifty (\$78,550.00) Dollars.

10. That upon January 1, 1914, the plaintiff, Western Federation of Miners claimed that The Butte Miners' Union, a corporation, owed it a balance of Forty-four Thousand Two Hundred and Sixty-eight and 15/100 (\$44,268.15) Dollars, and from said date January 1, 1914, to June 2nd of said Year, the following additional amounts:

January	1	.....	\$44268.15
"	16	.....	1250.00
"	21	.....	55.00
February	1	.....	15428.00
"	5	.....	1250.00
"	10	.....	166.50
March	1	.....	20317.50
"	2	.....	1250.00
"	2	.....	7.50
"	18	.....	1250.00
April	1	.....	20639.50
"	10	.....	1250.00
May	1	.....	19656.00
"	7	.....	1250.00
June	1	.....	7576.00
"	2	.....	1250.00

making a total amount owing from January 1, 1914, to June 2d, 1914, One Hundred Thirty-six Thousand, Eight Hundred and Sixty-four and 65/100 (\$136,864.65) Dollars.

11. After receiving the said sum of Seventy-eight Thousand Five Hundred and Fifty (\$78,550) Dollars, in a period of six months, the said plaintiff, Western Federation of Miners, claim that at said time, to wit, June 13, 1914, there was due and owing

from The Butte Miners' Union, a corporation, to the plaintiff, Western Federation of Miners, a balance of Sixty Thousand Four Hundred and Fifteen and 65/100 (\$60,415.65) Dollars.

12. These defendants further allege that during all of the time in which the said plaintiff, Western Federation of Miners, demanded and received the said sums of money above set forth, from [93] The Butte Miners' Union, a corporation, the said corporation, was compelled to pay the said sums of money to the said plaintiff, through its officers and were not permitted to, at any time, send the money themselves, to the places wherein the said officers of the said plaintiff claimed it was wanted for and was to be sent.

13. These answering defendants further allege, that through all of the years in which the said The Butte Miners' Union, a corporation, has worked under a charter from the said plaintiff, Western Federation of Miners, that it has not received *on* cent of benefit in any shape, manner or form from the said plaintiff, Western Federation of Miners.

14. These answering defendants further allege, that on or about the 15th day of May, 1893, the said The Butte Miners' Union, a corporation, had thousands of members and thousands of dollars in its treasury. That all of its members were working in harmony and that they enjoyed the respect, confidence and good will of all of the employers of mines in the County of Silver Bow, State of Montana and its union cards were recognized and respected by all of them.

15. That because of the tyranny and many exactions of the said plaintiff, Western Federation of Miners, and the manner in which the money of The Butte Miners' Union, a corporation, had been taken by the said plaintiff, the Western Federation of Miners, without any return to The Butte Miners' Union, a corporation dissatisfaction, was created among its members and the citizens of Silver Bow County, to such an extent that they revolted on the 13th day of June, 1914, and later on the 23d day of said month, when the plaintiff, Charles H. Moyer, came to Butte to run the business of The Butte Miners' Union, a corporation, assisted by many others they again revolted, destroyed a large amount of property of 'The Butte Miners' Union, a corporation, and attempted to capture and hang the said plaintiff, Charles H. Moyer.

16. That the said plaintiff, Charles H. Moyer, pretended president of the pretended Western Federation of Miners, the said [94] plaintiff Guy E. Miller, the pretended attorney in fact of the said Charles H. Moyer, the said Ed. O'Byrne, and one John C. Lowney, and one Charles Mahoney, have conspired and confederated themselves together with other members of the alleged and pretended executive board of the pretended Western Federation of Miners, for the purpose of plundering The Butte Miners' Union, a corporation, and getting possession of its funds and property, and appropriating the same to their, the said Moyer, Miller, Mahoney, Lowney and O'Byrne and others own use.

17. That in furtherance of said conspiracy, the

said Moyer did shortly after the 13th day of June, 1914, attempt to get possession of the money, the property of The Butte Miners' Union, a corporation, on deposit in the banking-house of the Daly Bank and Trust Company in Butte City, Montana, and in furtherance of said scheme of plunder, did falsely and fraudulently represent to the said banking-house that it was his intention to remove the said moneys, the property of The Butte Miners' Union, a corporation, to Denver, Colorado, for safe keeping.

18. That the plaintiff, Western Federation of Miners, is no longer a *bona fide* labor organization. That it is but a pretense and a sham, whose only purpose is to attempt to collect moneys for the purpose of paying salaries, hotel bills and etc., so as to keep the above-named plaintiffs, Moyer, Miller, and the above mentioned Lowney, Mahoney and O'Byrne and others in idleness at the expense of the miners and others in the country, who yield to their persuasions or succumb to their bluffs.

19. That it has neither membership or standing in any of the former fields of its activity, nor its members recognized, except in the smelter of Anaconda and the stationary engineers of Butte. The said smeltermen and engineers being recognized upon their own merits, and not because of their affiliation with the plaintiff, Western Federation of Miners. That since deprived [95] of the donations and per capita of The Butte Miners' Union, a corporation, it has not been able to pay its bills or meet its obligations in any manner, and has repeatedly appealed to The Butte Miners' Union,



a corporation, since the 13th day of June last, to advance it money, to pay the bills *contract* by it for gunmen to guard the said plaintiff, Charles H. Moyer and others of its officers, and to pay the expense of the delegate elected by it to attend the convention held at Philadelphia. That it was unable to pay the bills for guns bought and borrowed by Moyer, upon and a few days prior to the 23d day of June, 1914, last, and lost by him and them upon the said date and the said bill was, upon the request of the plaintiff, Moyer, paid by The Butte Miners' Union, a corporation.

20. That upon the last visit of the said Charles H. Moyer, to Butte, he found it necessary to place gunmen upon the landings and in the halls leading to his room in the hotel in which he stopped and said bills, so contracted by him, were paid by the said The Butte Miners' Union, a corporation. And if the plaintiff Moyer now came to Butte to take charge of the property of The Butte Miners' Union, a corporation, it would require a large amount of money to supply him with guards.

21. That the said request for donations for the payment of the numerous bills of the said plaintiff, Western Federation of Miners, and its officers, after the 13th day of June, 1914, became so numerous, expensive and burdensome, that the loyal members of The Butte Miners' Union, a corporation, who had remained loyal to it, during all of its troubles, refused to further vote money for the purpose of keeping Moyer and his associates living in idleness and luxury, in useless and expensive offices in the

City of Denver, Colorado, hundreds of miles from a mine or miners' union and boarding him at the best hotels in the country and riding in Pullman coaches, when the members of The Butte Miners' Union, a corporation were idle and their families suffering want. [96]

22. That all of these answering defendants are officers of The Butte Miners' Union, a corporation and the members in good standing thereof, refused to longer contribute the money of The Butte Miners' Union, a corporation, for the above mentioned purposes, and thereby incurred the ill-will of the said plaintiff, Western Federation of Miners, Charles H. Moyer, Guy E. Miller, Ed. O'Byrne, Charles Mahoney, J. C. Lowney and others who conspired and confederated together for the purpose of removing these answering defendants from office in The Butte Miners' Union, a corporation, and then wrecking the said union and appropriating its moneys and property to their own use and for said purpose, did attempt, through their paid tools, to bring proceedings to remove these defendants from office and discouraging others from assisting them in rebuilding The Butte Miners' Union, a corporation, and are now proclaiming through the press that they own the money of The Butte Miners' Union, a corporation, and will not permit the said union to rebuild its hall with its own money and credit.

23. That by reason of their acts and activities along this line, and by reason of the fear engendered in the minds of the legitimate miners of Silver Bow County, that their money would again be contributed

to support the above-named plaintiffs and their lackeys, they have refused to pay dues to The Butte Miners' Union, a corporation, and the labor of these answering defendants have been multiplied many times.

24. That the said plaintiffs above-named and those associated with them, have in every possible manner, attempted to prevent The Butte Miners' Union, a corporation, from carrying on its business of protecting its members, burying their dead and caring for their sick; have warned the banking-house, wherein their money is deposited, that if its checks are honored, that they will bring suit against the said bank for the recovery of money so paid out. Have circulated many slanderous reports about these answering [97] defendants, among others, that they were not officers of the Union; that there was no union in existence, and that all moneys and properties of the said union, was the property of the above-named plaintiffs.

25. These answering defendants further say: that if the plaintiffs above-named are permitted to continue as they have been, that it will be impossible to build up The Butte Miners' Union, a corporation, or to increase its membership finances or standing, to what it was before.

26. That each and all of the above-named plaintiffs are insolvent. Are without means, property or resources whatever, except what is secretly and privately concealed from public knowledge, and their unlawful acts can only result in great and irreparable injury to these answering defendants and to The

Butte Miners' Union, a corporation, whose officers they are, and that unless restrained and enjoined from further interfering in any manner with The Butte Miners' Union, a corporation, or with its property, or with these defendants in the conduct of the business of The Butte Miners' Union, a corporation, all of the interests and property they represent and are pledged to protect, will be destroyed.

27. That there is no plain, speedy or adequate remedy at law.

WHEREFORE, these answering defendants pray,  
1. That the plaintiffs herein take nothing by this action. 2. That the defendants be given judgment for their costs. 3. That during the pendency of this action, the plaintiffs herein, their servants, agents, attorneys and employees and all persons acting for them or by their authority or under their control be temporarily restrained and enjoined from, in any manner, interfering with the business or property of The Butte Miners' Union, a corporation, or these defendants or any of them, in the fulfillment of their duties as officers of The Butte Miners' Union, a corporation. [98] 4. That upon the final hearing of this case, that the said plaintiffs and each of them, their servants, agents, attorneys and employees and all persons acting in their behalf or under their control, be permanently enjoined from, in any manner, interfering with The Butte Miners' Union, a corporation, or with its business affairs interfering in any manner whatsoever, with these defendants or the conduct of the business

of The Butte Miners' Union, a corporation.

A. C. McDANIEL and  
PETER BREEN,  
Attorneys for Defendants.

State of Montana,  
County of Silver Bow,—ss.

Patrick Lee being first duly sworn, says: That he is one of the defendants named in the foregoing answer; that he had read the said answer, knows the contents thereof, and that the same is true, except as to matters and things stated on information and belief, and as to these he believes it to be true.

PATRICK LEE.

Subscribed and sworn to before me this 19th day of February, 1915.

[Seal] PETER BREEN,  
Notary Public for the State of Montana, Residing  
at Butte, Montana.

My commission expires June 2d, 1916.

Service of the foregoing answer acknowledged and copy received February 20th, 1915.

CANNING & GEAGAN and  
E. P. KELLY,  
Attorneys for Plaintiffs. [99]



**Exhibit "G"—Reply to Answer, Western Federation of Miners et al. v. Scahill et al.**

*In the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organizations, Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, and CHARLES H. MOYER, President of the WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons, With Its Headquarters in the City and County of Denver, and State of Colorado; GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN, JAMES RYAN, JAMES WALSH and PATRICK QUIGLEY,

Defendants.

Comes now the plaintiffs above-named and for reply to the answer of the defendants herein, admits, deny and allege, as follows, to wit:

Deny, generally and specifically each and every of the allegations in *in* said answer contained.

WHEREFORE, having fully replied the plain-

tiffs pray judgment in accordance with the prayer of their complaint herein.

CANNING & GEAGAN and  
E. P. KELLY,

Attorneys for Plaintiffs.

State of Montana,  
County of Silver Bow,—ss.

Guy E. Miller, being first duly sworn upon oath deposes and says: That he is one of the plaintiffs named in the above-entitled action, and makes this verification in behalf of himself and the other plaintiffs, and says that he has read the foregoing reply, knows the contents thereof, and that the same is true of his own knowledge, except as to matters and things therein stated upon information and belief, and as to these matters and things he believes them to be true.

GUY E. MILLER. [100]

Subscribed and sworn to before me this 16th day of March, A. D. 1915.

[Notarial Seal]

P. E. GEAGAN,

Notary Public in and for the State of Montana, Residing at Butte, Montana.

My commission expires Jan. 13, 1918.

[Endorsed]: Filed May 13, 1915. [101]

**Exhibit "H" to Answer—Power of Attorney,  
Moyer, etc. to Miller.**

KNOW ALL MEN BY THESE PRESENTS,  
That I, Charles H. Moyer, President of the Western Federation of Miners, a voluntary organization of the City and County of Denver, State of Colorado, have made, constituted and appointed, and by these

presents do make, constitute and appoint Guy E. Miller, of the City of Butte, State of Montana, my true and lawful attorney, for me and in my name, place and stead, to take complete charge of the affairs, including all books and papers of the Butte Miners' Union, a Corporation, existing under and by authority of the laws of the State of Montana, whose headquarters are at 217 North Main Street, Butte, Montana, and to receive and file any and all charges that may be made against the local officers of said union, and to transmit the same or a copy thereof to me, and to collect and receive any and all moneys which shall be due, owing and payable, and belonging to the said Butte Miners' Union; and in my name represent before any Judge or Minister of the Law, whatsoever, and in any court or courts of Judicature, and on my behalf prosecute for any debt, fraud and any manner of claims that the said Butte Miners' Union may have against any persons or persons, and to answer, defend all actions or causes whatsoever relating to the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming, and holding valid all that my said attorney shall *lawfull* do or cause to be done by virtue of these presents.

Witness my hand and seal at Denver, Colorado, this 30th day of November, A. D. 1914.

CHAS. H. MOYER, (Seal)

President W. F. M. [102]

State of Colorado,  
City and County of Denver,—ss.

I, \_\_\_\_\_, a Notary Public in and for the City, County and State aforesaid, do hereby certify that \_\_\_\_\_, who is personally known to me to be the person whose name is subscribed to the within Power of Attorney appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_ day of November, A. D. 1915.

My commission expires \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[103]

**Exhibit "I" to Answer—Order to Show Cause and Restraining Order, Western Federation of Miners et al. vs. Scahill et al.**

*In the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organization, Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, and CHARLES H. MOYER, President of the WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons, With Its Headquarters in the City and

County of Denver, and State of Colorado;  
GUY E. MILLER and ED. O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,  
Defendants.

ORDER TO SHOW CAUSE AND RESTRAIN-  
ING ORDER.

On the Amended Complaint of the plaintiffs herein duly verified, the material allegations made positively, a copy of which is hereto attached.

IT IS ORDERED: That the defendants above named, and each of them, show cause before the above-entitled court in department 2 thereof, at the courthouse, in the City of Butte, County of Silver Bow, State of Montana, on the 20th day of February, 1915, at 9:30 o'clock A. M. of said day, why an injunction should not be granted restraining them, and each of them, and all of their agents, servants, employees, attorneys and anyone acting for or in their behalf or under their direction, from in any way interfering with the plaintiffs herein, and the plaintiff Charles H. Moyer, as President of the Western Federation of Miners, in the possession and control of the property of The Butte Miners Union, a corporation, pending the determination of the charges filed against the officers of said corporation, a copy of which said charges is set forth in the complaint herein, and the holding and conducting of an election



by the members of said [104] corporation for new officers, if the charges set forth in the complaint herein and filed by the members of said corporation against the defendants herein, as officers of said corporation are found and proven to be true, and from interfering with the putting of the business of The Butte Miners' Union, a corporation on a business basis.

Dated this 8th day of Feb. A. D. 1915.

JOHN B. McCLERNAN,  
Judge.

Attest: [Court Seal] JOHN J. FOLEY,  
Clerk of the District Court of the Second Judicial  
District, of the State of Montana.

By J. J. Vines,  
Deputy. [105]

**Exhibit "J" to Answer—Conclusions of Law—  
Western Federation of Miners et al. vs. Scahill  
et al.**

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons,  
With Its Headquarters in the City and County  
of Denver, State of Colorado, et al.,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

Upon the facts adduced on the hearing of the order to show cause herein, the Court finds for the plaintiffs and makes the following:

### CONCLUSIONS OF LAW.

I. That the application to the Western Federation of Miners for a charter by Butte Miners' Union No. 1, a corporation, and the granting of the same by the Western Federation of Miners, and the acceptance thereof by the said union corporation, established contractual relations between the two bodies legally binding on both.

II. That the amendment to the constitution of the Western Federation of Miners set forth in the Amended Complaint, and known throughout the hearing as Amendment No. 2, was regularly adopted by the Western Federation of Miners and locals constituting the same, and thereupon became and was a part of the constitution of the Western Federation of Miners and binding upon the said union, corporation, by reason of its application for and acceptance of the Charter hereinbefore mentioned, and became and was part of the contract existing between the Western Federation of Miners and the union, corporation. That whether or not it was the part of wisdom to adopt the said amendment is not a matter for consideration by this court. [106]

III. That in accordance with the terms and provisions of said constitution, as amended, charges were regularly preferred against all of the above-named defendants, and the said defendants, so charged, with the exception of James Walsh and James Ryan, trustees of said union, corporation, de-

clined and refused, after demand, to comply with the terms, conditions, and refused, *after demand, to comply with the terms, conditions* and provisions of the Constitution of the Western Federation of Miners, as amended.

IV. That Guy E. Miller was the duly appointed and lawful attorney in fact of Charles H. Moyer, president of the Western Federation of Miners at the time of the presentation of said charges and the making of said demand, and presented said charges and made said demand pursuant to the authority in him vested by written power of attorney from said Moyer to him. That the power so delegated by said Moyer, as president of the Western Federation of Miners, was purely administrative and ministerial and could be and was legally delegated.

V. That a temporary injunction should issue herein.

#### IT IS THEREFORE ORDERED:

I. That a temporary restraining order issue herein, enjoining and restraining the defendants (excepting James Walsh and James Ryan), their agents, servants, employees and attorneys, or anyone acting *for on* in their behalf, or under their direction, from in any way interfering with the plaintiffs, Western Federation of Miners, or Guy E. Miller, the attorney in fact of Charles H. Moyer, president of the Western Federation of Miners, in the possession and control of the property of the Butte Miners' Union No. 1, a corporation, for the purpose mentioned in the said amendment to the Constitution of

the Western Federation of Miners.

II. Enjoining and restraining said plaintiffs, and each and all of *the* their agents, servants, employees and attorneys, or anyone acting for or in their behalf, from disposing of the whole or any part, of the funds of the Butte Miners' Union No. 1, a [107] corporation, now on deposit in any bank in Butte, from removing the same from said bank or banks, and from in any manner interfering with the same without further order of this court; and from disposing of or removing from the County of Silver Bow, Montana, any of the books, records, property or effects of said Butte Miners' Union, No. 1, a corporation.

Done in open court this 12th day of June, 1915.

JOHN B. McCLERNAN,

Judge. [108]

**Exhibit "K" to Answer—Temporary Restraining Order, Western Federation of Miners et al. vs. Scahill et al.**

*In the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons, With Its Headquarters in the City and County of Denver, State of Colorado, et al.,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN, JAMES A. RYAN, JAMES WALSH and PATRICK QUIGLEY,

Defendants.



## TEMPORARY RESTRAINING ORDER.

This matter coming on regularly for hearing on the —— day of May, 1915, on the order to show cause heretofore issued herein, plaintiffs being represented by their attorneys, Canning, Geagan and Kelly, and the defendants being present in person and represented by their counsel, Peter Breen and A. C. McDaniel, Esq., testimony was thereupon introduced on behalf of plaintiffs, and being concluded, testimony was thereupon introduced on behalf of defendants, and being concluded, and both sides having announced that the testimony on the said hearing was closed, counsel for the respective parties thereupon argued the said cause orally, and thereafter, the Court took the said order to show cause under advisement, and the Court being fully advised in the premises:

NOW, THEREFORE, it is hereby ordered, and this does order that the defendants, Martin Scahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan and Patrick Quigley, be and each and all of them, their agents, servants or employees, or anyone acting for or on their behalf, or under their direction, are hereby enjoined and restrained from in any way or manner interfering with the plaintiffs, Western Federation of Miners, or Guy E. Miller, the attorney in fact of Charles H. Moyer, the [109] President of the Western Federation of Miners in the possession and control of the property of the Butte Miners' Union No. 1, a corporation, for the purposes mentioned in the amendment to the constitution of the Western Federation of Miners as alleged in the



Amended Complaint of plaintiffs and known throughout the hearing of the order to show cause as "Amendment No. 2."

AND IT IS FURTHER ORDERED, and this does order that the said plaintiffs, and each and all of them, their agents, servants, employees and attorneys, or any one acting for or on their behalf are hereby enjoined and restrained from disposing of the whole or any part of the funds of the Butte Miners' Union No. 1, a corporation, now on deposit in any bank in Butte, or from removing the same from the said bank or banks, or from in any manner interfering with the same without the further order of this court, and are hereby enjoined and restrained from disposing of, or removing from the County of Silver Bow, Montana, any of the books, records, property or effects of the said Butte Miners' Union No. 1, a corporation.

Done in open court this 14th day of June, 1915.

JOHN B. McCLERNAN,

Judge. [110]

**Exhibit "L" to Answer—Affidavit of Martin Scahill, State ex rel. Butte Miners' Union vs. District Court, etc.**

*In the Supreme Court of the State of Montana.*

THE STATE OF MONTANA, on the Relation of  
THE BUTTE MINERS' UNION, a Corpo-  
ration, MARTIN SCAHILL, PATRICK  
LEE, PATRICK O'NEILL, MIKE A. SUL-  
LIVAN, and PATRICK QUIGLEY,

Relators and Plaintiffs,

vs.

THE DISTRICT COURT OF THE SECOND  
JUDICIAL DISTRICT OF THE STATE  
OF MONTANA, in and for the County of  
Silver Bow, and the Hon. John B. McClernan,  
One of the Judges Thereof, Western Federa-  
tion of Miners, a Voluntary Organization and  
Association of Persons With Its Headquar-  
ters in the City and County of Denver, State  
of Colorado; Charles H. Moyer, President of  
the Western Federation of Miners, a Volun-  
tary Organization and Association of Persons,  
With Its Headquarters in the City and  
County of Denver, State of Colorado; Guy E.  
Miller; and Ed. O'Byrne,

Respondents and Defendants.

AFFIDAVIT FOR WRIT.

State of Montana,

County of Silver Bow,—ss.

Martin Seahill, being first duly sworn, on oath says:

That the plaintiff, The Butte Miners' Union, is now and was at all of the times herein mentioned, a corporation organized and existing under and by virtue of the laws of the State of Montana; that on or about the 4th day of May, 1881, *the* The Miners' Union, duly and regularly filed in the office of the county clerk and recorder of Silver Bow County, Montana, its articles of incorporation, a true copy of which articles are hereto attached, marked Exhibit "I," and made a part of this affidavit; that on or about the 8th day of February, 1901, the said The Miners' Union filed in said county clerk and recorder's office an extension of its corporate [111] existence, a true copy of which extension is hereto attached, marked Exhibit II, and made a part of this affidavit; that on or about the 13th day of August, 1914, the said corporation filed in said county clerk and recorder's office a certificate of change of name of said corporation, changing the name to "The Butte Miners' Union," a true copy of which certificate is hereto attached, marked Exhibit III, and made a part of this affidavit; and said matters in this paragraph mentioned were duly filed in the office of the Secretary of State of Montana.

2. That the membership of said corporation consists of persons engaged in the mining, milling and

reduction of ores and minerals and about the mining, milling and reduction of ores and minerals in Butte, Montana, and vicinity.

3. That the plaintiff, Martin Scahill, is the president of said corporation, he being duly and regularly elected vice-president and taking the office of vice-president on the 7th day of July, 1914, and afterwards on December 1, 1914, upon the resignation of the president of said corporation, duly and regularly taking the said office of president; that the plaintiff Patrick Lee is the duly elected, qualified and acting secretary-treasurer of said corporation for the term beginning July 7, 1914, and ending July 6, 1915; that the plaintiff Patrick O'Neill is the duly elected, qualified and acting recording secretary of said corporation for the term beginning July 7, 1914, and ending July 6, 1915; that the plaintiffs Mike A. Sullivan and Patrick Quigley are the duly elected, qualified and acting trustees of said corporation for the term beginning July 7, 1914, and ending July 6, 1915.

4. That on the 17th day of December, 1914, an action, numbered A-6590, was commenced, by the filing of a complaint, in the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, by the Western Federation of Miners, a voluntary organization and association of persons, with [112] its headquarters in the City and County of Denver, State of Colorado, and Charles H. Moyer, President of the Western Federation of Miners, a voluntary organization and association of persons with its headquar-

ters in the City and County of Denver, and State of Colorado, and Guy E. Miller and Ed O'Byrne, as plaintiffs, against Martin Scahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, as defendants; that afterwards and on or about the 8th day of February, 1915, the said plaintiffs therein in said action, by leave of Court, served and filed their Amended Complaint in said action, a true copy of which Amended Complaint is hereto attached, marked Exhibit IV, and made a part of this affidavit; that thereafter on or about the 20th day of February, 1915, the said defendants in said action duly served and filed their Answer to said Amended Complaint, a true copy of which answer is hereto attached, marked Exhibit V, and made a part of this affidavit; that thereafter and on or about the 13th day of May, 1915, the said plaintiffs by leave of Court first had and obtained, filed their reply to said answer, a true copy of which reply is hereto attached, marked Exhibit VI, and made a part of this affidavit; that thereafter and on or about the — day of May, 1915, the said plaintiffs, by leave of Court, first had and obtained, amended said Amended Complaint by substituting for exhibit "D" thereof, a power of attorney from Charles H. Moyer, to Guy E. Miller, another and different power of attorney from Charles H. Moyer to Guy E. Miller, a true copy of which last mentioned power of attorney is hereto attached marked Exhibit VII, and made a part of this affidavit.

5. That on or about the 8th day of February, 1915, the said District Court of the Second Judicial



District made and entered an order that the said defendants in said action in said court appear before said Court and show cause why a temporary restraining order should not issue in said action restraining said defendants therein from doing certain acts, a true copy of which order to show cause is [113] hereto attached, marked exhibit VIII, and made a part of this affidavit; that thereafter and on or about the 20th day of February, 1915, the said order came regularly on for hearing and the hearing was not completed and said order was at divers times partially heard and was finally on or about the 2d day of June, 1915, finally submitted to the said court and judge, which after hearing the evidence submitted and the arguments of counsel afterwards on the 12th day of June, 1915, fully made and entered an order restraining the said defendants in said action, excepting James Ryan and James Walsh, from doing certain acts, a true copy of which order is hereto attached, marked exhibit IX, and made a part of this affidavit; that thereafter and on June 14th, 1915, the Court made and entered another order, a true copy of which order is hereto attached, marked exhibit X, and made a part of this affidavit.

6. That the amendment to the constitution of the Western Federation of Miners under which the plaintiffs in said action in said court claim the relief prayed for in said Amended Complaint is in words and figures following, to wit:

The president shall have power on petition of ten per cent of the members in good standing in their respective locals making charges in writing against

their local officers to take complete charge of the local's affairs, and if the charges are proven he shall call a special election within 30 days and place local's affairs on a business basis before relinquishing to local's officials.

7. That the said Court was and is wholly without, and in excess of its, jurisdiction to make or enter said order dated June 12, 1915, Exhibit IX hereof, or said order dated June 14th, 1915, Exhibit X hereof, or any part or portion thereof, and was and is proceeding under a mistake of law, in this, and for each of the following reasons:

a. The said amendment to the constitution of the Western Federation of Miners is and was void for each of the following reasons: [114]

- (1) It is uncertain;
- (2) It is unreasonable;
- (3) It is indefinite;
- (4) It deprives a person of property without due process of law, contrary to the constitution of the State of Montana;
- (5) It deprives a person of property without due process of law, contrary to the constitution of the United States.
- (6) It deprives the The Butte Miners Union, a corporation organized and existing under the laws of the State of Montana, of the possession and control of its property, contrary to the laws of the State of Montana, and of the United States;
- (7) It places the control of the said corporation in the hands of others than its duly elected officers,

contrary to the laws of the State of Montana and of the United States;

(8) It places the control of the property of said corporation in the hands of others than its duly elected officers contrary to the laws of the State of Montana, and of the United States;

(9) It places the property of said corporation in the custody and control of others than its duly elected officers, contrary to the laws of the State of Montana, and of the United States;

(10) The said corporation can be managed by no others than its duly elected officers provided for by the laws of the State of Montana;

(11) The said amendment seeks to confiscate without judicial process property owned and held absolutely by the said The Butte Miners' Union, a Corporation;

(12) A corporation organized under the laws of the State of Montana cannot subject itself or its members [115] to the jurisdiction of an authority existing outside of or beyond the control of the laws of the State of Montana;

(13) By-laws or constitutions of voluntary associations cannot have the force of law nor impair nor affect the rights of property against the will of its real owner;

(14) A corporation organized and existing under the laws of the State of Montana cannot be deprived of the possession or control of property belonging to it by the Western Federation of Miners or any of its agents, officers, servants or attorneys;

(15) The said amendment to said constitution

provides for no notice to the said The Butte Miners' Union, a corporation, nor to any of its members or officers, and places the control of said corporation, including the control of its property and affairs, in the hands of persons wholly without the corporation and in no way connected with it and without in any way giving to said corporation or its officers or members an opportunity to be heard and contest the same.

b. A corporation organized and existing under the laws of the State of Montana cannot be deprived of the possession or control of its property by the Western Federation of Miners, or any other person, corporation or association.

c. The said corporation can be managed by no others than its duly elected officers as provided for by the laws of the State of Montana.

d. The control of said corporation is placed in the hands of others than its duly elected officers.

e. The property of said corporation is placed in the hands of others than its duly elected officers.

f. A corporation organized under the laws of the State of Montana cannot subject itself or its members to the jurisdiction of an authority existing outside of or beyond the control of the laws of the State of Montana. [116]

g. By-laws or constitutions of voluntary associations or any association or corporation cannot have the force of law nor impair or affect rights of property against the will of its real owner.

h. The said amendment to said constitution is repugnant to the laws of the State of Montana.



8. That the said The Butte Miners' Union, a corporation, is interested in these proceedings and in said action in said district court for the reason that its affairs and property are interfered with as herein alleged.

9. That there is no plain, speedy or adequate remedy by appeal from said order of said Court, in this: The property and control of the said corporation is taken from said corporation and its duly elected officers; the control of said corporation and its affairs, property and business are placed in the hands of persons under no obligation to said corporation, and whose interests are directly derogatory to said corporation, adverse in all respects to the interests of said corporation, and who have claimed and who do now claim the property of said corporation as the property of themselves, and who intend to finally appropriate said property to the use of the said Western Federation of Miners, or others, at the earliest opportunity, and who tried to appropriate the same for such use; the said plaintiffs named in said amended complaint, and their officers, agents and servants and persons working in harmony with them, intend to disrupt, disorganize and bankrupt said corporation and they would have said corporation disrupted and disorganized before an appeal could be heard in this court; the said corporation is deprived of the right to conduct its business and affairs granted it by the laws of the State of Montana, and its control, affairs, property, business, rights and privileges are taken from it, as aforesaid the said order deprives each of the said Martin



Scahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan and Patrick Quigley, of rights and privileges which cannot be corrected [117] by appeal or restored by appeal to them; that under and by virtue of said orders dated June 12th, 1915, and June 14th, 1915, exhibits IX and X hereof, the said Guy E. Miller and the other plaintiffs in said action in said District Court, and their agents, and persons in harmony with them, have taken possession of a portion of the books, records, papers and other property of said corporation and have removed the same from the offices of said corporation and have taken the same into their and each of their possession and control and are using the same as their and each of their own property and deny to the said corporation any right thereto or the use thereof and are converting the said property to their and each of their use and benefit; that the said plaintiffs, particularly Guy E. Miller, and their agents and persons in harmony with them, have caused to be published in the Butte Daily Post, of the issue of June 16th, 1915, a newspaper published in Silver Bow County, Montana, an advertisement which is in words and figures following, to wit:

**“FOR THIRTY DAYS.**

“For 30 days you can become a member of the Butte Miners' Union upon payment of one dollar. Members are worth more than dollars. If you are engaged in the mining industry you should be a member of the Miners' Union. Get in. Get busy. Bring others in. Put Butte on the map again as the

best union town in the country, and help to make the miners' organization the bulwark of the toilers.

"The day of the union knocker and character assassin has passed in Butte. They are the enemies of every worker—they try to create division and distrust. Such men are doing the work of the detectives whether they are paid for it or not.

"The union men of Butte to-day realize how much they need the miners—and the miners need us. Our hand is outstretched to aid them. Today every obstacle in the way of the miners' reorganization is removed, and every labor union in Butte is ready to lend all [118] possible aid. The future of the miners depends upon themselves. United they stand—divided they fall. Which side are you going to take? Do you stand for unity or division? Will you strive to maintain and improve conditions or will you aid in destroying them? Talk is cheap. Show your card.

"Every day's work, with copper around the present price, bring you an extra 50 cents per day because of the union contract. That is some of the union's work—you are glad to get the benefit derived from organization. Keep up your union if you want to keep up wages.

"The union hall is the place to discuss every grievance and shortcoming of the union. Go there to solve the problems of organized effort; learn to co-operate with others. You and the union will both be the better for it.

"Let us profit by the mistakes of the past. Let us take warning from the miserable conditions obtain-

ing in many openshop communities. Let us unite in rebuilding a miners' union that shall be a credit to the workers, protecting their interests, redressing their grievances, making happier their lives.

"In behalf of a happier future, in the interest of all, we urge every worker in the metal mining industry of Butte to join the miners' union. The enrollment book is at the Workingmen's Office in the Carpenters' Hall.

"You need a union—the union needs you. War is hell—so is the open shop. Unite. Do it now.

THE SILVER BOW TRADES AND LABOR  
COUNCIL MEDIATION BOARD.

—Adv."

The said plaintiffs and each and all of them in said action in said District Court and their agents, officers and servants, as shown by said advertisement, are offering to take into membership of said corporation persons upon the payment of one dollar whereas the regulation initiation fee, as provided in the constitution and by-laws [119] of said corporation is five dollars, and they and each of them are claiming the right to and are assuming to say and declare, contrary, to the constitution and by-laws of said corporation and the laws of the State of Montana, who shall become members of the said corporation, and have assumed to dictate and are dictating the policy of said corporation and the affairs of said corporation, and are depriving the said corporation of all rights as a corporation, and are depriving the members of said corporation of their inalienable rights as members of said corporation.

That by reason of said order, relators herein will be greatly and irreparably damaged in this:

That their property is taken from their control, and by reason thereof, they will be unable to secure a meeting place to conduct their meetings and the business of the corporation, pending appeal, and are prevented from going ahead and repairing their said property, which has heretofore been partially destroyed, and the said property will greatly deteriorate in value by reason of delay and the business of the said corporation will be irreparably injured in this:

That the membership will and are refusing to pay dues, for the purpose of keeping up the corporation, for fear that the funds so accumulated, will be turned over to Guy E. Miller and Charles H. Moyer, officers of the Western Federation of Miners, a voluntary association of persons with headquarters in the City and County of Denver, State of Colorado, and by reason of such failure, the aims and objects of the corporation will be defeated and the membership of said corporation, will become demoralized.

That the subject matter of the act, is without the jurisdiction of the Court in this:

That The Butte Miners' Union, a corporation, is not and was not a party to the action referred to, but regardless of which fact, its property and effects are by said order, delivered over to the [120] plaintiffs mentioned in said action.

That by reason of the said order, the defendants in said action, are, "enjoined and restrained from in any way or manner interfering with the plaintiffs,



Western Federation of Miners, of Guy E. Miller, the attorney in fact of Charles H. Moyer, the President of the Western Federation of Miners, in the possession and control of the property of The Butte Miners' Union No. 1, a corporation, for the purposes mentioned in the amendment to the constitution of the Western Federation of Miners, as alleged in the amended complaint of plaintiffs and known throughout the hearing of the order to show cause as 'Amendment No. 2.' "

Further it appears from said order, that the plaintiffs are "enjoined and restrained from disposing of the whole, or any part of the funds of The Butte Miners' Union No. 1, a corporation, now on deposit in any bank in Butte, or from removing the same from the said bank or banks, or from in any manner interfering with the same without the further order of this court," but it does not directly forbid them from incumbering the same.

Relators herein will suffer great and irreparable injury, pending appeal, because of the fact that the plaintiffs in said action are unable to respond in damages in any amount whatever that may be suffered by these relators, because of said order, and by reason of the fact, that the said order does not exact a bond from the said plaintiffs above referred to, sufficient in amount or in any amount to protect them from loss.

That at the time the Court filed its conclusion of law in the said case, request was made, on behalf of the said defendants, by their attorneys, that the Court make an order, compelling the plaintiffs, par-



ticularly Guy E. Miller, to give a bond for the protection of these relators, which request was, by the Court denied and an exception duly taken thereto.

These relators will further suffer great and irreparable [121] injury by said order, which injury cannot be remedied by appeal, by reason of the fact that the action in question was brought against the officers of the Butte Miners' Union, No. 1, W. F. of M., as individuals, but not against the office. That the constitution and by-laws of both the Western Federation of Miners and of The Butte Miners' Union, a corporation, provide the length of the term of said officers.

That during the pendency of said action, the time provided by the constitution of The Butte Miners' Union a corporation, at which nominations should be made, and new officers elected arrived, and in compliance with the requirements of said constitution, nominations were duly made as provided by the said constitution and prior to the date on which the court's conclusions of law were made and filed, and election for officers for The Butte Miners' Union, a corporation, for the ensuing term, was duly held and officers for the term commencing the first Tuesday of July, 1915, to hold for one year, were elected and under the constitution of The Butte Miners' Union, a corporation, the said officers so elected on the first Tuesday of June, 1914, should be installed on the first Tuesday of July, 1915, which is the 6th day of July, 1915.

That by reason of said order, great confusion and

uncertainty will arise when the officers so elected are installed.

These relators further state, that prior to the making of said order, they were by the plaintiff heretofore mentioned, to wit: The Western Federation of Miners and its executive officers suspended from membership, and further assert, that they had voluntarily on or about the 15th day of January, 1915, and prior to the making and filing of the said conclusion of law and the order herein complained of, withdrawn and severed all relations with the said plaintiff, Western Federation of Miners, and its officers, and did thereafter by resolution, publicly sever all relations with the said Western Federation of Miners, and did return the charter and seal received [122] from said Western Federation of Miners, at an end, and did thereafter upon June 15th, 1915, give public notice to the world, by a formal resolution, that they were no longer in any manner affiliated with the Western Federation of Miners, a true copy of which said resolution is hereto attached marked exhibit XI and made a part hereof.

These relators will suffer great and irreparable injury that an appeal will not remedy for the reason that the delay incident thereto, would strike at the very *like* of the relator, The Butte Miners' Union, a corporation, if it did not cause its total destruction, in this: That being deprived of its property and the use thereof, and if the books and records, necessary for the conduct of its business, it will be compelled to incur additional expense in procuring quarters to meet in and the necessary books of record, without

being permitted to purchase the same out of the funds contributed by its members and will be prevented from caring for its sick and burying its dead.

Further the relators herein will suffer great and irreparable injury, which cannot be remedied by the right of appeal, by reason of the fact that a transcript of the testimony is necessary in taking an appeal, and a careful investigation of the costs incidental to procuring a transcript of the testimony from the official court reporter and the printing of the same, and the briefs in connection therewith, will amount to approximately the sum of Eight Hundred (\$800) Dollars.

That these relators applied for an order of court permitting the use of said amount, out of the funds of The Butte Miners' Union, a corporation, or as much thereof as may be necessary for the purpose of appealing from said order, which said request for said order, was denied by the Court, and an exception taken thereto, a true copy of which said order applied for and the affidavits in support thereof, is hereto attached marked exhibit XII, and made a part hereof. [123]

That on the 26th day of June, 1915, a notice of appeal from said order, in said action was duly filed in said court, a certified copy of which said notice of appeal from said order, is hereto attached, marked exhibit XIII, and made a part hereof.

Relators further complain, that they will suffer great and irreparable injury by reason of the said order and the necessary delay in appealing therefrom for the following reasons:

(a) That at present, the relator, The Butte Miners' Union, a corporation, is engaged in litigation with the City of Butte, for permitting the destruction of its hall and personal property by a mob, during the month of June, 1914, amounting to many thousands of dollars. That the said action will suffer by reason of the said order, and the interference of the Western Federation of Miners, through Guy E. Miller, personal representative of Charles H. Moyer. The said Miller, claiming on behalf of the said Western Federation of Miners, the control of the property of the said relator and the rights to conduct all litigation relating to The Butte Miners' Union, a corporation.

(b) That at the present time, the relator, The Butte Miners' Union, a corporation, is engaged in litigation in the Black Hills, South Dakota, in a case entitled, The Butte Miners' Union, a Corporation, Plaintiffs, vs. Charles H. Moyer, as trustee for the Western Federation of Miners, Charles H. Moyer, the Western Federation of Miners, an unincorporated association, Charles H. Moyer, Charles E. Mahoney, Ernest Mills, John C. Lowney, Yanco Terzich, Guy E. Miller, and William Davidson, as members of said Western Federation of Miners and as managing officers and representatives, thereof, and other members of said unincorporated association to a great number represented by said Charles H. Moyer, Charles E. Mahoney, Ernest Mills, John C. Lowney, Yanco Terzich, Guy E. Miller, and William Davidson; also Charles S. Hardin as Sheriff of Lawrence County, South Dakota, and the Lead City



Miners' Union, a corporation, defendants, for the sum of Thirty-two Thousand Seven Hundred Eighty-five and 95/100 (\$32,785.95) Dollars. [124]

That the defendants in said action are claiming that they have been, by reason of the said order referred to, declared entitled to all of the above-mentioned property, of The Butte Miners' Union, a corporation, and in furtherance of said claim, have prepared certified copies of the pleadings in the case of the Western Federation of Miners et al., vs. Martin Scahill et al., and have forwarded them to their attorneys in the Black Hills, for the purpose of using them in evidence in attempting to get control of the said property. The said cause last referred to, being set for trial upon the 2d day of July, 1915, at Deadwood, South Dakota.

That by reason of the said order and the delay incidental and necessary to take an appeal, these relators will be prevented from procuring the necessary money to secure the presence of counsel and necessary witnesses to properly protect their rights at the trial of the last mentioned case.

That after the rendition and entry of said order of June 14, 1915, certain of the individual respondents and defendants herein, aside from said court and judge, did file in said court and cause, certain petitions and affidavits wherein and whereby said respondents and defendants, aside from said court and said judge, did and do seek to have all of your relators and plaintiffs aside from said corporation, tried and punished for an alleged contempt, consisting generally in this, that they have since the rendi-



tion and entry of the order so made, carried on and conducted the business of The Butte Miners' Union, a corporation, Relator herein, and that unless restrained or properly directed in the premises, said court and said judge will proceed to hear said matter and proceed to determine the same; that the alleged acts of your relators and plaintiffs, for which punishment of the alleged contempt is sought, arises from alleged acts performed, not under their individual and sole capacity, but as officers and agents of the corporation, relator and plaintiff herein.

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Relators and plaintiffs herein will by reason of the order so made and entered, as aforesaid suffer great and irreparable injury in this:

That the respondent and defendant Guy E. Miller, as the personal representative and attorney in fact of Charles H. Moyer, President of the Western Federation of Miners, is by reason thereof, attempting to usurp the name of the relator The Butte Miners' Union, a corporation, and as above set forth, has been and now is calling for recruits and volunteers by alleging that he is building up relator, when in truth and in fact he is attempting to destroy the relator, The Butte Miners' Union, a corporation, by attempting to create and establish a rival miners union organization, while giving it the name of said relator, The Butte Miners' Union, a corporation, and unless prevented by this court will usurp the name of the said The Butte Miners' Union, a corporation, and will usurp the rights and privileges of the said The Butte Miners' Union, a corporation.

10. That this affiant makes this affidavit for and on behalf of all of the relators and plaintiffs in this proceedings.

WHEREFORE, your relators and plaintiffs herein respectfully submit that this court by its orders and mandates should supervise, or in other and proper legal manner efficiently direct the said court and the judge thereof in the premises, and that this court should by the exercise of a supervising mandate, or such other mandate as may be proper in the premises, expunge, suspend and annul, revise or correct the said orders of said court dated June 12th, 1915, and June 14th, 1915, exhibits IX and X hereof, and that this court should by the exercise of a proper mandate in the premises review the said orders of said court and declare the same annulled, and make such mandate and direction unto the respondents and defendants herein as shall seem meet and proper.

And these relators and plaintiffs herein respectfully request [126] and pray that this court grant unto them any such order or orders as may be meet in the premises, and such further adequate and sufficient relief as to this court may seem meet and just in the premises.

MARTIN SCAHILL.

Subscribed and sworn to before me this 26th day of June, 1915.

[Notarial Seal] PETER BREEN,  
Notary Public for the State of Montana, residing at  
Butte, Montana.

My commission expires June 2d, 1916. [127]

## EXHIBIT I.

KNOW all men by these presents: That we the undersigned, residents of Silver Bow County, Montana, Territory pursuant to a resolution of the Butte Working Mens' Union (whose name has been changed to that of the "Miners' Union," being an association of Miners and others) adopted at a meeting held for that purpose in Butte City, of said County and territory, prior to the signing and ensembling of these presents, which resolution is as follows, to wit:

"Resolved, that the trustees of the Butte Working Mens' Union, to wit: Eugene D. Sullivan, Charles S. Shoemaker, Michael Grose, James Cardigan, and Henry Rodda be, and are hereby authorized to incorporate this union, and for that purpose to file with the proper officer such certificates as is required by law; and that said trustees shall conduct the affairs of the corporation so formed until their successors are elected at the next annual election held for that purpose," do this day hereby associate ourselves together for the purpose incorporating said association under the laws of the territory of Montana: That said association shall be known by the corporate name of "Miners' Union," and we hereby certify that the objects for which this corporation is founded are: To protect the interests of the membership of said association, and to enable it to hold such property as may be necessary for the protection of its good and the advancement of the interest same, and to enable it to establish subordinate organizations and to become a body politic and corporate in law and to this end.

1. The property of said association shall be held by the trustees thereof, and their successors in office, as such, with the exception of money, which shall be held by the treasurer of said corporation.

2. That the trustees shall have power to sell, loan or mortgage any real estate or other property the corporation may have, or may hereafter acquire, for the purpose of enabling said corporation [128] to erect and maintain a Hall for the meeting of said society, to wit: The Miners' Union.

3. That the trustees shall have power in their discretion to issue stock which shall be unassessable, for the purpose of building and maintaining said Hall, but said stock so issued shall not exceed in amount the sum of Ten Thousand Dollars (\$10,000).

4. Said incorporation may at any time, provide itself or the public with a public or private library, and may lease or rent any portion of any property owned and not otherwise used for said purposes.

5. Said incorporation shall have power to sue and be sued, to plead and be impleaded in their corporate name.

6. Said incorporation may have a seal which may be changed at pleasure.

7. That said trustees shall hold their office until the first annual meeting in March, A. D. 1882, or until their successors are elected, and that thereafter a board of trustees, consisting of not less than *five*, nor more than *nine*, who shall be members of said society, or incorporation, "The Miners' Union," shall be elected for the period of one year, or until their successors are elected, and that in case of any vacancy



happening in said board of directors said incorporation shall have power to elect one or more of its members to fill each vacancy or vacancies, at any meeting after the happening of the same: That as soon after the election of said trustees, or any of them, as maybe, the President of said incorporation shall issue under his hand and the seal of said incorporation, a certificate of election to each of said trustees so elected, which shall be good and sufficient authority for authorizing said trustees to act for said incorporation.

8. Said incorporation shall be subject to such rules and regulations as it may now have for its government, or may hereafter enact, provided they are not contrary to these Articles of Incorporation,  
[129]

9. Said incorporation shall have power to establish branch organizations, which shall be subject in their government to the rules and regulations of this society, to wit: "The Miners' Union," but in all other particulars they shall be free and independent; That when any nine persons desire to establish a branch organization they may apply to the President of the Union, who may, in his discretion authorize the institution of such branch society, and shall, when so established, grant to said branch society, a charter, signed by himself and the Recording Secretary, and attested under the seal of said incorporation.

10. That the private property of the members of this incorporation shall not be subject to the corporate debts of the same.



IN WITNESS WHEREOF, we have hereunto set our hands and seals this 16th day of April, A. D. 1881.

CHARLES S. SHOEMAKER (Seal)

EUGENE SULLIVAN (Seal)

MICHAELS GROCE (Seal)

JAMES CARDIGAN (Seal)

HENRY RODDA (Seal)

Territory of Montana,  
County of Silver Bow,—ss.

On this 18th day of April, A. D. 1881, before me, the undersigned, a Notary Public in and for the Territory of Montana, personally appeared James Codigan, Eugene Sullivan, Henry Rodda, Michael Groce and Charles S. Shoemaker to me personally known to be the persons described in, and who executed the foregoing instrument, and who severally acknowledged that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year in this certificate above written.

(Signed) CHARLES S. WARREN,  
Notary Public, Montana Territory. [130]

## EXHIBIT II.

That—Whereas, “The Miners’ Union” was duly incorporated on the 4th day of May, in the year A. D. 1881, under and by virtue of the laws of the Territory of Montana, Articles of such corporation having been filed in the office of the County Clerk and Re-

corder of the County of Silver Bow, "THEN" The Territory of Montana, on the said 4th day of May, A. D. 1881, such corporation to exist and continue for the period of Twenty years from the said date, and

Whereas—The President, Secretary, and Board of Trustees, of said corporation "The Miners' Union" have by and with the consent of more than a majority of all the members of said corporation, in writing first obtained, elected to continue the existence of the said corporation, "The Miners' Union" under the provisions of the Civil Code of the State of Montana, applicable thereto, as Approved by the Legislature of the State of Montana, and as provided by Section 400, of the Civil Code of the said State of Montana, and,

Whereas—Such consent in writing of more than a majority of the members as aforesaid has been duly had, and a certificate of the proceedings thereon duly certified to by the President, Secretary, and Board of Trustees, of The Miners' Union, said corporation, has been filed with the County Clerk and Recorder of the County of Silver Bow, State of Montana, and a certified Copy thereof filed with the Secretary of State of the State of Montana.

Now—Therefore, We, the undersigned composing more than Two Thirds of all the members of "The Miners' Union" said corporation Hereby ASSENT in writing, and REQUEST, That the corporate existence of THE MINERS' UNION, be and the same is hereby extended and continued for the period of Twenty years from and after the period for which it

was formed, to wit: Twenty years from the 4th day of May, A. D. 1901.

And we hereby authorize, and empower W. H. Eddy, President, Frank O'Connor, Secretary, and William H. La'Duke, J. J. Quinn, F. W. McKewn, Charles O'Brien, and John Shea, Trustees, of "The [131] Miners' Union" said incorporation to do every act and thing necessary to be done in the premises, as aforesaid, for the purpose of extending the period of existence of said corporation, twenty years from and after the expiration of the period for which it was formed, and we hereby give our consent in writing to such extension, of said corporation, as aforesaid:

In Witness Whereof, we have hereunto set our hands this 30th day of November, A D. 1900:

W. H. Eddy, Frank O'Connor, Ed. Reese, Jerry Hanley, Pat Mitchell, Joe Allemandi, James P. Martini, Grant A. Ballon, Quinn J. Murphy, James Mahoney, P. F. Boland, James Maher, Michael Donahue, Ed. Hughes, Mike Greene, John Murtha, Thomas Carroll, D. J. Hannifan, Michael H. Mooney, H. B. McMillan, Paul Sheehan, Pat Smith, Pat Sullivan, George Vukoevih, Dan Harrington, Gio Gonterio, James Negro, Peter J. Scoles, Arthur Dutcher, William Haterty, A. G. Hickok, Pat McGrael, Jerry Sullivan, Mike O'Connor, F. W. McKeon, William Bowden, John R. Murphy, John Nagle, John Dempsey, Pat Peoples, Joe Shannon, Joseph Calloway, Fred Haul, James Kilrain, W. H. Ward, Eugene McNellie, Thomas O'Connor, Mike Laughlin, Mike Kellaher, W. H. La'Duke, Richard Dewyer, Mar-

tin Celico, Charles O'Brien, Mike Hart, John Wilkinson, M. J. Mooney, William P. O'Neil, John Shea, Tim J. McCarthy, Robert K. Boyd, Mike Spoo, W. Vucen niler, James Castri, William Ralph, John McGuirk, James O'Rourke, Pat Sullivan, Peter Schaletz, Joseph Long, P. J. McNamara, Charles Allen, W. J. Weeks, Hannibal Berryman, Joe Childs, John Culbert, John Thornton, Michael McCormick, Thomas Kalliher, P. J. Lally, James P. Brown, John Hayes, John Casey, Peter Casey, Patrick Brogan, Eugene Sullivan, Richard Butks, Edward Banahan, Michael F. Cannon, Pat Peters, Gilbert Wilson, Eug. Riordan, Jerry Cannady, Lee Rice, John J. Stafford, Thomas Bragel, Geo. Wilson, W. H. Barry, Pat T. Shea, J. J. O'Neil, John Masy, W. J. Mest, John Honey, James Morrissey, James Kinney, W. M. Wing, Nick Ayers, Mike Rines, Thomas Caughlin, Antone Gussie, Peter [132] Pilo, Onreitti, Commaso, Vesco Joh, J. J. Fitzmorris, Thomas J. Kennedy, Wm. Britt, Mike O'Neill, M. J. Kieran, Pat M. Monahan, Thomas Scanlon, M. McGlyn, William Murray, H. J. Bush, Peter McNulty, Marti Costello, Thomas Mash, John Bennett, Ed. Kane, Tom Cole, John J. Flanagan, Denis F. Clark, Joseph Burke, Mark Ryley, Thomas Casey, James Kearney, John Holland, Richard Farrell, M. Connors, John McGinniss, Peter McDermott, Lawrence Doyle, Peter Doble, Pat Boyle, Wm. O. Veal, W. Mulcahey, Robert Kelley, James Dolan, Roy Henderson, Richard Kane, Pat Flarity, James Fitzgerald, J. P. Smith, G. L. Gunn, Pat Gallagher, Michael Ruddy, Fred Tramell,



Thomas Aurran, Dennis Mehan, Joseph D. Cannon, Pat Fahey, John S. Scerz, Matt Mahoney, Chiro Schmille, Walter Ellis, William Hoy, John Joy, James Moriarty, S. T. Taylor, Barney Fury, John Cavanaugh, Jerry Donohue, Bart Shannon, M. T. Scott, Jerry Sullivan, Owen Barnes, Pat McGovern, James Hickey, Nat Walsh, Larry Dorsey, John E. Sloan, James Clark, James McNally, Sam Toy, Dave Walsh, Mike O'Connell, Quinn Sullivan, Pat Gallagher, Pat Lannon, John Beck, D. B. Murphy, James P. Cole, John Rider, E. Muhillo, Thomas Bren, Thomas Casey, J. B. Leary, John McGarrell, Joe Stran, James H. Sullivan, William Quinn, Daniel Monnihan, John E. Larkin, Martin Hagan, George Halpied, Thomas Devine, Pat Kelly, Lee Oldenorff, A. B. Williams, Gus Nelson, Joe Sullivan, Andrew Dangan, W. Mahoney, Denis Dllea, M. Collins, Thomas J. Hoar, Brig Pollock, Robert Bennett, Aug. Harkins, James H. Smith, Martin Martinson, Emanuel Willcocks, Martin Mallik, Robert Nelson, Ulive Stefane, John Cuttes, William Rodda, James Pascoe, Thomas Webster, John Leonard, Archie McPhail, George Pascoe, Patrick J. Lyden, Joseph Hocking, James Lyons, John H. Thomas, Charles Treloar, Christ Roe, John H. Wier, B. E. Nowlin, Quinn Sullivan, Frank Brandt, John Praee, S. J. Perry, P. J. Martin, James P. Sullivan, Dan McBride, Henry Matthews. Henry Treglon, John Flavin, E. W. Cassel, Josiah Lawry, Phillip Burt, John Williams, W. O. Monahan, D. McCabe, R. J. Williams, [133] James Holman, Thomas Kelley, Michael Deevy,



Thomas Robinson, Ole Anderson, W. J. Ward, James Lemmon, Thomas Flannigan, John Robinson, John Pomeroy, W. G. Dougherty, Matt Hammond, W. L. Matherson, Daniel Thomas, E. Parks, James A. Golden, A. Matson, John Cook, Pat S. Murphy, John Vander Ghote, Alfred Pouston, William Stride, O. A. Stroseman, John Uren, Roy Marks, Maurice Lalande, William Davis, Piter Kyse, Thos. Morcom, A. Callaghan, James Kitto, Pat Kennelly, John Varker, William Partell, H. Miema, Alex. Hueston, G. L. Williams, James M. Williams, Mat Gala, John Keskeys, William Verran, Martin Stephens, W. H. Combellieck, Antonio Boneiel, Ernest Kimmal, Peter Cercone, Geo. Sandow, Tim Twomey, John Wilson, Frank Johnson, Charles Wallard, Richard Ralph, James My Davies, Jos. Robetts, James Downey, Denis O'Connor, John Grentz, H. E. Opates, John Osborn, Con Boyle, Harry Pascoe, Levi Atkinson, Charles C. Johnson, Sam Ward, R. J. Collin, Mike Gleason, William Flynn, Allan D. Cammeron, Steve Vargo, Lawrence Gargan, John Hivala, P. J. Shaw, James Harmand, James Casey, John H. Harrington, John F. Burke, Bery Shayffter, David Dtson, Con E. Monaghan, John Kilpatrick, Stephen Davis, Charles Ashford, John Glagher, William Ellis, John K. Murray, Mike Highes, Joseph Berard, Michael W. Walsh, John F. Sheridan, E. Downing, E. J. Walsh, Vidor Virra, Peter Sodae, Henry Rundle, Fred Laning, Z. Bardwell, E. J. Smith, Archie Gavan, James Gallagher, F. J. Vedis, Charles Bate, J. F. Mur-

phy, Sam Turks, Ed. Shanahan, William Rich, J. S. Eagle, G. D. Henderson, Joseph Meany, Frank Myers, John P. Cunningham, James Hickey, Pat Shield, Thomas Holman, Patrick H. Drummey, James C. Casly, James H. Murphy, Joseph B. Hughes, Harry Williams, J. B. Hart, George Heaman, James Trythall, James Desotte, John Vichery, James O'Donnell, Samuel Coombs, W. C. King, B. J. Walsh, Sam Maittille, James Spargo, Bart Kearins, Albett Rice, James Brogan, Jerry Burns, Denis Lynch, Pat May, Sam Osborn, Adam Johnston, Dan Drew, Mike Hogan, Dan O'Brien, Peter Harrington, George Ott, Timothy [134] Spilland, M. Toner, Charles Bone, Jerry Holland, T. J. Booher, John M. O'Neal, John Rinaldo, Charles McDevitt, Peter J. Sullivan, Ed. Hasley, Michael Dwyer, A. Koschitz, James Moutin, James Scahill, Geo. H. Tole, James Crowther, J. D. Donohue, James Roberts, M. C. Huffman, Frank Riley, James Jenkin, William Kelly, Alfred Temby, James Althouse, Joseph Gainer, Henery Jewell, Thomas Olds, George Tippet, William Kitto, William F. Dunstan, Frank Williams, Robt. Thomas, Herman Bergquist, Joseph H. T. Harris, Peter Kamiaium, James O'Herrin, Francis Howe, Jerry Leary, L. J. Cruickshank, John B. Scott, Wm. B. Daly, John J. Quinn, Tim Driscoll, William B. Sperry, Thomas Waters, James Holland, Geo. P. Schelinsky, Thomas H. Bray, John M. Hanley, James Noerthy, B. F. Knox, W. J. McDonald, F. J. Toohey, John Hayes, John Walsh, Martin Smith, Z. V. Bell, Jerry Sullivan,

Con Sullivan, Dick Toohey, Can C. Sullivan, Paddy Ryan, Jack Sullivan, Wm. Fauell, Silverter Downey, Dennis Sullivan, Dennis Sehea, Patrick Shea, J. James, Tim Burns, Jack Burns, Con Ryan, J. Faran, D. Kennedy, Thomas Henry, F. Switzer, John McDonald, John Mahan, Mike Sullivan, Mike Garry, John Banbiben, John Downey, Moses Downey, Dinney Gaviny, Wm. Terzise, Thomas T. Ellis, Charles Ellis, William Harvey, George Thomas, John Harvey, William Eddy, J. Clemens, John Sparge, J. Ryan, John O'Brien, Peter Gibeens, Thomas Shault, Richard Schault, Benjamin, Shault, J. Comba, J. Sullivan, John Holland, James Lowney, Henry Conroy, Con Sullivan, John Ayers, Tim Sullivan, John Pierce, Mike Sullivan, James Thomas, Thomas Richards, Robt. Blackmore, Jerry Harrington, Mat Cooney, Thomas Delaney, Pat O'Donnell, Dennis Sullivan, Chars Ferry, Frank Schuddieck, Patrick Moher, Paddy Conaway, Dick Carney, Maurice Carney, E. O. Packard, Phil Brogan, James McGarvey, Joe Joy, Frank Greeleey, Hugh McBride, John Gallagher, Larry Duggan, Pete Haland, Owen McBride, John Call, John McLaugh, Pat McKinley, Joe Meaney, S. W. Carney, Patrick J. Kelley, Pat Hannifan, Philip Holman, J. S. Murphy, [135] Dennis Lowney, Jerry Harrington, John J. Lynch, John Crowley, James Lowney, Tim J. Lynch, Robert McCoory, Frank McCooley, John Morrinson, John Welsh, John Murry, Hugh Morrinson, Pat C. Sullivan, Con Sullivan, M. J. Harrington, Philip Sheehan, Jerry Harrington, Frank Cozzay, M.

Coleman, Dennis Holland, William J. Eddy, N. Bowdin, James F. Neary, John J. Myrray, William Odgers, M. M. Sullivan, Chas. Allen, Pat Lavelle, Thos. Malia, T. W. Dweller, C. A. Payton, Harry Blum, Jerry Sheehan, James Meehan, Barnet Fitzpatrick, Joseph Ham, Mike D. Sullivan, George Zambelick, Bianco Francisco, Ed. Dulong, Frank McKigul, Dominick Gernof, Con Mattee, Phillips Roberts, Rober O'Neill, John Ochk, James Ryan, H. W. Robinson, W. H. Kellett, J. P. McCarthy, John Hanley, Mike Quirk, W. T. Williams, Julius Steinborne, Truman Humes, Stephen Eva, William Walsh, William McKeon, Maurice Fitzgerald, Pat McCarthy, Michael Martin, Thomas McCart, Thomas W. Bradley, Pat Sullivan, Jamed Couch, John Drawford, Antony Scott, Frank Connelly. Dan Courtney, W. Williams, Charles Tonkin, Lawrence Abbott, William Nankivell, James W. Tippet, Alwx Make, James Connors, Mark Holland, William Commings, Thomas Castle, Thomas Drew, Evan Morgan, John F. Opie, Thomas Rodgers, George Blackisk, Albert Hunter, John Andrew, Joe Lasage, James M. Grant, Chas. F. Murphy, J. J. McMaohn, Ed. Connors, John Hallinan, Phil Sheridan, Kemp McKeen, John Kutsen, John Murpny, James Flannigan, J. B. Furey, William Hosking, Symon Hawke, Antonio Bertoglio, William Quealy, George Roletto, Dominick Roletto, August Moieson, Erick Long, M. B. Shea, Pat Duffey, Peter McDonald, Frank McKennah, Arthur Gratton, John Millihan, Michael P. O'Shea, John Malloy, George Slooom,



Pat Bresslin, John McGinley, Andres O'Brien, Henry Donston, Richard Wills, Richard Jenkin, Andrew Heth, James Donnelly, Pat McDonnell, W. L. M. Jones, H. A. Irvine, Thomas H. Tomkin, John Wm. McGraw, Frank Higgins, San Evan, [136] A. J. Sholes, Edwards Stane, John Edlar, James Mulholland, Dan G. G. Craig, Mike Jovice, John Delancy, Fred Blewett, James McGuire, W. Trudeau, James Gleason, P. S. O'Brien, Bert Macdonald, Mike J. Sullivan, John J. Harrington, E. B. Cook, William Carbenter, Jerry Kelley, T. W. Heaterley, Charles Fournier, Mike Shea, M. Quill, Martin Hanley, Pat Bonner, G. M. Comperetto, Jacob Torneo, Martin O'Rourke, D. D. Sullivan, Frank L. Reber, Patrick Stenson, Peter Doble, James R. McGrath, Maurice Hartnett, Tim Leary, John H. Sullivan, Simon Curtin, John W. McGuire, John E. McDonald, John McCormick, John Eatherne, E. J. O'Donnell, Alec Pauher, John T. Kelley, A. B. Cummings, William Crigan, Tim Shea, Charles Mtson, Charles Bone, Ed. Monnghan, Dio Conterio, Peter Callo, Abel Sulin, Martin Fox, John Sheehan, Dennis Harrington, Robert Currin, George M. Good, Mike T. Harrington, John Connell, C. J. Allen, Jerry Lynch, Pat Doyle, John Wilton, James Caly, John Mickle, John Boat, Dennis E. Sullivan, Peter Harrington, U. Clark, George Bopp, Owen Boyle, James O'Boyle, Steve Roach, Thomas Fill, John Logie, M. J. Haley, John Rippir, J. H. Steinborn, Frank Downing, T. J. Kiley, Thomas Sattrley, Tom Conway, Dennis



O'Neil, John Roberts, Domenico Croglia, Bart Sullivan, Ben Thomas, Owen Murphy, James Kerrey, Andrew Hill, J. J. P. White, W. D. Moore, John B. Murphy, Mike Sullivan, Stone. Adolph, Perton, J. M. Murphy, Mike Murphy, John Doran, John H. Mullin, Sam Arthur, Thomas H. Ball, John B. Gallon, Pat Gallagher, Thomas Gleason, Lawrence Byren, Amus Jay, C. X. Lousdale, Pat Casey, John Griffin, Joseph Calloway, Tom Corbley, John Lindore, John Winne, John McGlynn, William Seymour, Thmos Caslin, Martin Dempsey, James Spargo, John Snow, James H. Thomas, William Tucker, Joseph Fayne, Thomas O'Neill, Thomas Mulrone, John Callow, Tim Flagan, Tim McNamara, Thomas Barrett, Con D. Sullivan, W. H. Oliver, Walter Rudolph, Pat Mead, Peter Millen, Emile Bouthittier, Peter Meehan, John J. Driscoll, Jerry Shea, Pete McGream, Pat D. Sullivan, William Tregear, John Leary, Henry Crestello, Tim T. Sullivan, W. F. Brennan, [137] M. L. Francis, Anserw Wickeren, J. W. Doley, Thomas Dolan, Tom Mullarhey, Patrick E. Rooney, Con E. Murphy, Alex-Poikela, J. J. McIssac, Dennis Lener, Paul Germoltz, George Burg, William James, Henry Luiker, Dan Murphy, Dennis Hurley, Steve Richards, Thomas Blythe, Walter Bradeshaw, James Fitzgerald, Robert Mackie, James Bortoglio, William H. Sweet, T. K. Mullane, Frank Jinks, John C. Sullivan, Dan D. Shay, Jerry Buckley, Thomas Cummings, A. Jeargl, Meansy, James O'Leary, E. J. Giberson, R. Angove, Isaac Anunte,

James B. Ford, John Jagoa, James Mulligan, Thomas Bailey, Same Bolitho, Joseph Bishop, Ed. Billings, H. H. Brown, David T. Evans, John Blewett, John Harrington, Sam Wear, Antone Timmetti, Andy York, Thomas Wright, Sampson Symonds, John Welch, Harry Trenberth, J. P. Crowley, John H. Griffin, Sam Daoust, Thomas Deelan, Hugh Ferry, Thomas H. Evans, Paull Racca, W. F. Packard, James Walle, John Ryan, R. J. Bean, A. D. Schweninger, B. Berloyle, Antone Croylio, Chas. Bonning, Dominic Gibbons, James Powers, Maurice Powers, Ed. Grose, Henry Wasley, Joseph A. Thomas, Richard O'Conner, John H. Harrington, Michael Harrington, A. H. Sieg, James Driscoll, Ole Honson, Murray McMullan, Flurry J. Sullivan, C. Young, Thomas Kelley, Peter Shea, William S. Cannon, William H. Da Land, John William Lusk, John Veals, Ed. Christian, D. M. Lowney, Nich Farystic, Martin Hennessey, John A. Barrett, James Hocking, K. W. Simpson, James Bennetts, Frank Smith, James McBride, Pat Gildea, W. R. Smith, J. H. Sultz, Thomas Lenihan, Con M. Kelley, William Tippet, W. A. Fogarty, Anthony Coggins, Pat C. Doherty, William Cardwel, Thomas R. Shealy, Edgar Campbell, Dick McIntyre, Pat D. Sullivan, Pat G. Sullivan, John Cotter, P. J. Callish, Earnest F. Foster, T. M. Mynch, George Tippet, Mich Hermanson, Ed. Lund, James J. Duigan, Hugh McAhon, William Ralph, John Caddy, R. Payne, R. H. Hocking, Frank Lawber, Thomas Thomson, Walter Lawrence, Timoth Driscoll,

Henry Ryan, John Zochmons, Owen Parker, Fred Clemo, George Bano, [138] Thomas Benashan, Frank Martinich, William Wawke, Thomas Howard, Barney Curran, Thomas C. Murphy, M. Gallo, James Voeva, Doninic Rolando, A. Lukes, F. Walters, Alex Mizelson, Pat Waters, L. H. Baxter, Ed. Rafferty, Dan Harrington, Nicholas Kent, William Harris, Andy Caufield, Mat George, John Filo, James McSweeney, Mike Harris, Mike Murray, John McRae, Lewis Eakley, G. R. Raine, John Watson, D. W. Wheeler, Ed. Gillmore, John Gilbert, F. J. Byrne, Henry Marchiado, Didrick, Ansinow, John Linder, Peter McBride, John Blythe, Richard McBreen, Garrett T. Sears, Austin Prendergast, James Johns, M. M. J. H. Burke, David Clifford, Ed. Bassett, Pat Murray, John B. Brannan, Oliver Shallow, James Vesco, Lewis Matenncei, Anton Biojak, Pat Powers, M. J. Dariner, Charls Caddy, Mike Hurley, M. J. Connors, Mike Callahan, Martin H. Quinn, C. H. Engenken, James Bowland, Thomas Sheridan, Peter De Bon, W. C. Schult, J. P. Leary, William Connors, Neil McGenty, Chris Sticiph, Thomas R. Bryant, John Kelley, J. M. Greene, Con McFadden, John Meleher, Thomas O'Brien, H. Ray, Frank J. Farley, Ed. J. Lowney, William Bustalir, Richard Drew, John Klume, Thomas Richards, George Tal-lon, Fred Rockow, Steve Murphy, Frank Ghella, John F. Williams, Lewis Woolcock, A. D. McMillan, H. Nicholas, A. Murrish, H. Nentrick, John Kearney, Larry C. Suller, William Merrill, William J. O'Brien, Tim Kelly, M. C. Harrington, Con T. Har-rington, Pat C. Sullivan, Mike Murphy, John Sulli-

van, Guy Newkirk, Lazer Klimovich, O. F. Grant, David Hogan, Pat Dunn, Tim Leary, Peter Dolan, John Carr, James Bary, J. D. Bamy, Con S. Lowney, Ed. Flinn, Pat J. O'Neill, Henry Runlich, Mike Haney, Burt Jackman, Tom Rooney, John Hamilton, Frank Mitchell, James H. Burrows, Ed. C. Crase, William Donahue, Will Philips, W. J. Carbis, Mike Stanton, Samuel Smale, Thomas James Hicks, Thomas Rundle, Henry Jones, John Fitzgerald, Dan Johnston, Charles N. O'Donnell, James Sheppard, Frank Robla, Joseph Roberts, Frank Hart, Joseph Gill, Jerry Nagle, Maurice M. Murphy, Mike Keefe, L. Baesenti, Pat Walsh, Valentine Sheehan, Thomas Carrig, Thomas S. Wore, William Flynn, Gust Kakila, William C. Roberts, [139] Larry McMahon, Pat Finnegan, Frank Oziorg, Alex Newman, Lee Johnson, Michael Prindiville, J. O. Hokola, James Crase, Matt Sullivan, John Keegan, Peter Moynihan, Mike Feeney, C. A. Trucand, Mike Shea, N. P. Thomas, Samuel Baten, W. J. Tervithick, Mike Dempsey, W. S. Murphy, Mike J. Murphy, Martin Doyle, Jim Dwyer, Charles Call, Jame Willoughby, Pat Scanlin, Mike Lowney, William Volker, T. J. McCauliffe, Ed. G. Kennedy, John Cumba, Isaac Johnson, William Collins, Sam Savage, R. Walter, J. C. Day, John H. Hicks, William F. Ward, Dennis J. Coughlin, John F. Dwyer, Thomas Griffin, Robert Maguire, R. E. Maguire, J. C. Drew, Ed. Farrell, Pat King, John Ghella, Joseph Rodgers, Dennis McGown, Geo. Upton, Dan Shea, Timothy Ryan, Pat Leahy, Harry Bone, Con Murray, J. Sumek, William King, William Butte, Milan Leptich, John P.



Byrne, Mich Blelich, John Bradley, James Bradley, Bartlett Bound, John R. Williams, John Whelan, Jerry C. Sullivan, John M. Sullivan, Frank Kennedy, Charles O'Rourke, Pat Graham, John C. Lynch, W. L. Smith, Con Dennehy, Mike Dennehy, Ernest Body, John Lenihan, John Coyle, Dennis Sullivan, Jerry C. Donovan, Richard Reynolds, J. J. McHale, W. Bowden, Dan Cohan, William J. Rodda, James Murphy, Dan Harrington, Hugh Hynes, Harry Tyack, John R. Sullivan, T. H. Bradey, H. A. McManian, Owliver Downs, Richard Dwyer, Edward Walsh, Joseph Hurby, Hugh McEnany, Ed. Kelleher, Andrew Kiley, Patrick Martin, William Hogan, Dan Harrington, Alex Berker, Peter Spuhar, John Gerzovich, William Casey, Pat Ward, Mike B. Sullivan, Jim Walsh, James Graham, Pat Holland, Pat Harrington, Thomas R. Murphy, James Reynolds, Con Toomey, John Herrin, Pat Sloan, M. J. Dooley, John Dennehy, Joseph Riley, John C. Donlan, John H. Riley, August Maddean, John Terney, John J. Kelly, Pat J. Clifford, J. Greene, Michael Boyle, Moses Penny, John Judge, Patrick Mullin, John Donohue, Frank Schoz, John Lot, Thomas Murphy, C. T. Murphy, Jeff Sullivan, John Newell, John Brown, Edward Jones, E. Johns, Pat Harrington, C. J. Shea, D. J. Sullivan, Tim Dwyer, Dan Downey, Mike McCarthy, John J. Donovan, [140] Michael Brennan, Dan Donovan, James Brown, Dan D. Shea, Edward Thomas, Andy Anderson, Thomas Anear, James Argall, Jacob Caro, J. James Chatham, John Cook, Thomas Estlick, Elijah Fall, John Finneagan, Jacob Kaars, Thomas Boland, Botholi Sebastian,



James Ryan, Mike Woods, A. E. Stoddard, Emanuel Wilcox, Lewis Sundin, Le Buckley, Jerry J. Lynch, Alex McCann, P. J. Driscill, Joe Barrett, J. Ferome, Jacob Torniz, James P. Brown, John Mack, Angel Bugiroli, Charles Bazzetta, Pat Dougherty, Samuel Waters, Barney Farrell, Edmund Sampson, Charles Erb, William Edwards, Fanehir, Richard Bray, T. T. Richards, John F. Gerry, Ed. Dingle, M. D. Neary, George Buckley, Arvid Pakkala, Dave Nobel, Francis Tubman, T. J. Moran, Andrew Daly, John J. Donnelly, Mat Kelloniemi, John D. Williams, M. J. McFadden, U. Quinn, Herbert Tredinnick, M. N. Deehan, Pat Clarey, John C. Lowney, Andrew Ryan, P. H. Canieslel, Anthony Shovlin, Mike Sheehan, Emmet R. Carroll, A. E. Cox, Anthony O'Mally, J. R. Fay, Walter Kemaugh, Joseph Mann, W. D. Eddy, Mike Murocy, George McGown, L. J. Baxter, Chas. Ferracy, Homer Locker, James Fitzgerald, Con J. Buckley, Dan Buckley, Edward Myle, A. J. Sigg, Sam Hill, William Hendy, W. H. Jones, W. J. Medlyn, Ed. McCoy, Joe McGinnis, John S. Mixon, William O'Malley, Joseph Hogan, John Catela, John Chero-vich, Laso Budech, James Ingraham, W. T. Williams, J. D. Hayes, Mike Dunn, George Winn, Pat O'Brien, Clarence Olda, Sam Oliver, Mike Piano, John Pierce, George Qaly, Frank Ritter, Andrew Nikkola, John Rock, George E. Matin, Claude Becker, Murty Sullivan, Park Bush, William J. Tallon, Charles Kaski, Dennis Toomey, Dennis Dennedy, John Koba, John Burke, John P. Leary, Hugh Hutchinson, Jacob Maenpa, James Lamrey, Harry Mellott, John Nanrervis, James Murray, James Goggan, Jerry X.

Lowney, Maurice Downey, William C. Downer, Jeff. Nughent, M. J. Dunn, D. D. Shea, T. J. Lyons, John Keefe, John Coggin, J. S. Goforth, Mike McCarthy, John J. Sullivan, William McFlynn, Richard Kicks, Martin Blomquist, Jerry L. O'Neill, J. M. Wills, Mike C. Sullivan, John Foley, Joseph [141] W. Johnson, Alfred Angove, James Axford, Dan Craig, James Dwyer, John Hanraty, John F. McGuire, James Sullivan, Hugh McGarvey, B. Angwin, Martin Dougherty, John Murphy, Maurice Griffin, Mike Reardon, Mike Glynn, William J. McGowan, Thomas Toy, Paul P. Muier, Trenc Valogor, Wm. Flemming, William Hughes, John Noona, John James, Em Polglass, Stephen Eva, John Cottell, Joseph J. Vincent, Tabi Seppanen, John Lynch, Rd. Gartrell, John Loyd Jones, Joseph Perce, Thomas Duggan, John Andrew, Con McDee, Dan McGarvey, Joseph T. Riley, Thomas Caserly, Peter Savoia, J. C. Clavum, James McGarrey, Tom Scanlon, John McAvoy, William O'Brien, J. J. Thomas, James J. Ryan, William Eva, Thomas Eva, John Gilbert, Sampson Doble, Charles Arratta, James Sullivan, Ben Thomas, Mike Sullivan, John Hart, Dennis Murphy, Ton O'Neil, John Henratty, J. C. Hanley, Dan D. Sullivan, Dennis Kennedy, William Eva, John P. McGuirk, Con Boyle, William Amrose, W. H. Price, Pat Bennett, Alfred Bunt, Ben Liles, David Moody, Pat O'Leary, Edwin Trevena, F. B. Tydd, Jas. McHalen, W. T. Moyle, John Bono, Edward Garrando, Josiah Cooking, Peter Sameram, William Williams, Paul Capvis, Bernard Lumbgrew, John W. Shea, John Ingram, Pasco Medo, Pat

Flinn, William Wills, Richard Wills, William Riddle, George Sproule, Thomas Maher, Joe Quire, Jacob E. Tysco, William C. Taylor, Harry Thomas, Antone Ferogelio, J. L. Murray, William Sharrow, Joseph Kroker, Edwin C. Gilee, Owe Lavein, Michael Elliott, Anton Temitti, Adro Pirjatel, Thomas Eld, William Wright, Edwin Williams, Ed. Williams, John Tregear, Dennis Call, Garrett Peiroe, P. F. Keegan, Joseph Carne, Michael T. Kelley, Quinn Crowley, Lawrence Scott, Joseph Ralph, J. W. Harris, Thomas Brogan, Bennett Tregonning, Herman Boyce, Pat Mullin, William Newton, M. Sneller, Malachy Lenihan, Fred C. Hall, H. Dewey, Anthony Ball, C. Bertoglio, E. J. Bertoglio, Pete Wenskas, Dan Fuller, August Erickson, Frank Hundee Barton, Mitchell, John P. McQuirk, Charles E. Sievers, Peter J. [142] Naughton, John Campbell, Andrew Johnston, George Timmings, George Stodden, Quinn Kelly, Frank Nark, Henry Kuly, John Neikklla, Thomas Caddy, Victor V. Mack, Michael McKevitt, John Doran, Thomas A. McLaughtlin, Bono Battirta, John Anda, B. Anda, Antone Gainanis, Charles Sainni, Richard Waters, John Otterman, Eugene Murphy, Angus McLeod, Thomas Windon, W. H. Dunston, R. W. McDonald, Frank Carroll, David Small, Rod McCaskill, Con McGee, J. C. A. Underwood, Martin Murrish, Mat Filhy, A. Tilbag, John H. Mutton, William Roberts, Robert Thompson, Harry Storms, Peter Osterman, Patrick Walsh, Dan Downey, William Hodge, Anthony Allemandi, Eigha Bowden, William Tregoning, Francis J. Roberts, Joh Alva, John N. Smith,

John Oldes, William Hall, Frank Bayok, Henery Karpi, Edward Richards, Harry Pope, James Trevithick, Donal Moore, Richard Williams, Charles H. Johnston, Dan Brogan, Martin Konade, James Leggo, R. Pierce, George Glenn, Joe Hagan, Elijah Fall, William Hallesey, Con P. Harrington, Frank J. Gleen, J. F. Nagle, Frank Cusing, C. W. Chlenker, H. J. Curley, John C. Sullivan, Dan J. Murphy, Dan Simmik, James Caritto, Con Currain, James F. Kelly, Pat Ragan, J. L. Neenan, J. T. Jacobs, John Waters, H. J. Klaning, A. Elkins, E. Beckwith, Gus Lein, Alfred Cocking, John Fleming, John Jourdan, F. J. Keegan, John A. Smith, William H. Perry, W. S. Barclay, Thomas Leahy, Con C. Murphy, Fred C. Gill, Dan D. Doyle, John Mesoch, William L. Siles, John S. McLaughlin, Clyde H. Otis, Barney Leon-esio, Fred McDonald, Mike Geary, Moses Forgett, T. Camayo, Thomas Duheme, Henry Haterell, Richard Harney, W. Roberts, Gwan Mackey, Charles Clantus, P. H. Carney, Charles Terry, George Lewis, Peter McGeehan, Pat K. Shea, T. D. McIlroy, Michael Shea, Patrick Call, Mike Rogers, Con L. Sullivan, Jacob Sonk, Herman Crunsberg, George Parlan, Henry Dingsls, John Fontana, Charles Keam, John Thomas, John Duffey, James Greenway, James G. Sullivan, William John Praed, Abraham Alorott, ~~John Winden, W. H. Dunston, R. W. McDonald, Frank Carroll,~~ [143] John Doyle, William Trw-hella, Anglo Moroni, W. M. Lightfoot, Phil C. Mur-phy, John H. Thomas, C. W. Peacock, Frank Um-geser, Thomas McElroy, W. J. Richards, Bennet Moyle, Andrew Masmpa, Frank McGuire, Mike



Orso, John Morello, Robert Lassen, W. Palmer, Strin Frank Hubbard, James E. Richards, M. J. Marrenan, John Long, James Trebilcock, Nerbin Johns, Sam T. Banfield, Tim Sheehan, Samuel Rich, R. J. Tonin, Dan Boynan, James Bennetts, Pat Reilly, Fred J. Prout, Mat Jacobsin, Thomas Kelly, John Noyle, Jessey W. Jones, James Kemp, Andrew Osborn, James Eslick, John C. Sullivan, C. Hill, J. W. Comford, Charles Rochon, Chric Vivian, James H. Williams, William Snyder, Nelson Jasperson, Peter Bottio, William Brew, Nathan Brew, Charles Consoni, William Kirk, J. D. Murphy, George Burke, Arthur M. Ellvana, Frank McKeegan, M. C. Lupey, Mike Sheehan, John Kekky, Dan W. Shea, B. Ciloti, Alfred Floyd, Symon Daly, Richard Kiley, John Toward, Thomas Quinlan, James C. Lowney, *Henry*, Henry Perkins, John J. Thomas, John Jory, W. J. Floyd, Pat Gibbons, George Roche, Andrew Nolan, Mike Lowney, James G. Barkla, John J. Conolly, John Finnegan, Dennis Sullivan, Jerry J. Sullivan, P. F. Sweeney, Pat Fahey, J. J. Murphy, William Rodda, Thomas Smith, Daniel Bacca, Ike Ritson, D. Perrier, John Peterson, Pat McVarry, James H. Johns, William Johns, James Wall, Alex March, John L. Matson, Humphrey Courtney, Dan Leahy, Mike Coll, D. L. Powers, Dan Dolan, John Sonbo, Pat King, E. M. Walter, Thomas Treloar, Jnr., Relix Neff, Naich Gidvando, Pat Minston, D. Vicasovich, Mike Fluiter, Charles Moroni, Mike Leahy, W. D. Williams, Joseph Pearce, John J. Roche, Antone Zuovo, Mike Kangas, George Peyiovich, Pat McLea, James



Kempsey, E. J. Hawton, John Cinningham, Andrew Hamberg, Pat Hennessy, Joe Lamul, Mike O'Neill, James Hyde, Pat Sullivan, Frank Reilly, Andrew Matson, Yakab Yanson, J. A. Brennan, Henery Jakela, Chas. H. Phoff, Paul Toomey, Samuel Rodgers, Lewis Hopkins, George McGan, Acker Corner, James Guest, John Haskins, John Sullivan, [144] William Moran, E. J. Clemo, Archie McDonald, Sam Woodward, Matt Vertoglio, W. H. Williams, Joseph Kusna, Pat McGuire, Joe Pgnett, A. R. Mordin, Tim Hanley, Pete Callahan, John Shea, Conrad Hall, Charles Mullec, Matt Whalen, Thomas Sadlier, Jerry M. Sullivan, T. J. Murphy, Mike O'Neill, Joseph Pearce, Nicholas Pearve, James Flynn, Martin Byrne, William Callow, James Hughes, Joe Butte, William Brew, James Harrington, Frank McMannon, Tim Callahan, Mike Dwer, William M. Casey, Thomas Brennon, Peter Negretti, Pat O'Neill, T. F. Keating, Henry L. Fluke, William Lester, William Hanifan, Fred Webber, P. F. Burns, George Burns, Timothy Lowney, Albert Brown, James R. Sloan, James H. Bennetts, A. C. Dawe, Pat O'Neill, James Hern, D. E. Murphy, John Bowen, Thomas Pusse, John Kewle, Mike Horvilke, James P. Farrell, Ben Cameron, Deny Murphy, Jerry D. Murphy, Edward Buzza, Dominic Renaldo, Batt Beanco, Hugh Waters, John L. Donohue, Stephen Thomas, Thomas Connors, Terrance Reilly, Pat Browse, Charles Halley, Martin Kanuch, Thomas F. Ryan, James P. Lowney, Tim Shea, James Flanda, Lui Psenda, Radislan Sakolich, Thomas Rowe, John A. Shanan, Pat Cummings,

Pat J. McKeaney, James Connell, Pat O'Brien, Sam Marrtelia, John T. O'Leary, Jacob Farce, Mike Higgins, Jerry Driscoll, Emerson Glasgan, Jacob Hore, James W. Shea, Con Shea, John Barrett, Maurice Dennehy, J. H. Hewitt, Pat Lowney, Pat T. Murphy, James H. Shea, George Selfridge, Henry Blewett, Ole Persons, Joseph M. Smith, John Houaban, Nick Botorick, William Higgins, Nich Lebatio, Steve Cearne, William Zeck, M. Gerson, Matt Sheller, ~~John Houaban, Nick Botorick, William~~ John Moroni, Mike Keeley, Walter Potela, James Nevins, John Walsh, Earnest Rogert, R. E. Hartley, Richard Jaat, Arthur Boyle, E. Boyle, Jerry O'Neill, Earnest Silvester, John Donohoe, W. J. Kenney, Thomas H. O'Connell, Pat Leonard, Ulivo Stevani, Angelo [145] Mattucci, Fred Stoner, William Fouyer, John Fouyer, Ben Ham, Connor Chambers, George D. Hexalett, Gerald B. Knott, William McGinnis, James O'Neill, Mike Lyons, John Malloy, Frank Vevian, Patrick Fleming, John Ferns, Richard Ferns, James McGure, Pat Gannon, Pat Hartington, Jerry Sullivan, Dennis Lynch, Charles McLoghlin, J. H. Mulane, James O'Conner, J. C. Scannell, Charles Dolan, Samuel Eddy, H. Brr, A. Buckley, E. T. Kelley, Mike Kearns, John B. Toomey, Pat Quinn, James Sullivan, George O'Brien, Thomas Powers, Ed. Sweeney, Winfered Russell, John M. Cumba, Mike Sullivan, Dennis Holland, Jerry D. Harrington, James Berne, James McGuire, Mike Casey, Jerry F. Sullivan, T. B. Williams, John H. Trevitheck, Thomas Tallon, James H. Williams, Pat Leary, Martin Cates, Benjamin

Berling, Pat Cavanaugh, D. J. Harrington, Pat Murphy, William Tobin, Batt O'Neill, John T. Daley, Dave D. Plackie, John A. Ryan, John McGenley, Louis Duclelso, Antone Jerry, Patrick O'Neill, Joe Sinkovic, M. C. Harrington, J. C. Donnelly, Con T. Harrington, Tim Leary, Joseph Para, Mike Meyack, James Tredinnick, Joseph Mitchell, Pat A. Smith, James Kneebone, Richard Whalen, Edward Dunn, Con Sullivan, Dennis C. Sullivan, P. J. Burns, Thomas A. Collins, Frank Actis, J. L. Roess, John R. Walsh, P. S. Dillon, Henry Cox, John P. Loughlin, John W. Newell, Jacob C. Weidenbach, Michael Hennigan, Dominic Davetti, John Keyes, John M. Murphy, Pat Connelly, George Honeychurch, John Rogers, Con O'Neill, Charles McDomertt, H. C. Howell, William Flynn, John Whalen, Moses Nolan, Charles Boyd, M. C. Murphy, John Byesfeld, William Hates, Joseph Burke, Henry Thomas, Dennis O'Donnell, Alex. D. Morrison, Thomas Lannon, Patrick O'Farell, James Gibbons, Jerry Crowley, W. Matthews, Jerry Harrington, Dan L. Reynolds, Matt Old, James Sullivan, Charles Masters, Antone Chadest, William McNamara, Thomas Higgins, James Thomas, Peter Byrne, John Vrkurke, [146] Pat McCaughey, John Copley, John Keegan, J. P. Ready, Dan F. Harrington, Costante Pellegrini, Bat Murphy, George M. Tyrell, John Hampton, E. Whalen, P. H. Daly, Richard Gladney, M. S. Cannan, Pat S. Greene, Michael Collins, David Powers, William Johns, John J. Murphy, Ed Fleming, Phillip McGovern, George W. Foley, Dan Callahan, Dan Sulli-

van, Mike Harrison, Mike Gorman, M. W. Sullivan, M. H. Cochrane, Thomas A. Kelly, George Ford, Steven McGeil, Mike Goodwin, Edward Jones, Harry Richard, John Hamilton, Joseph Sandow, Phillip Rowe, Henry Hendrickson, James Hennessy, John Mullins, T. W. Tucker, Andrew George, Frank Rogers, James Sullivan, Dennis Sullivan, Paul Trethaway, Stephen Carkesh, Frank Becker, Ed. Postern, R. Moran, James Ryan, James Williams, Thomas Williams, Charles Thomas, C. Gallagher, John Merford, Thomas Wolegan, Miles Gibbons, Patrick Nuhent, Pat Mullen, Pat McNulty, John Holden, John P. Plker, Harry R. Stevens, Charles Croene, Pat J. Harrington, Patrick J. Murphy, John O'Connell.

John W. Hughes, Tim B. Sullivan, Pat Clark, James Kemp, Mike Hannian, Jerry O'Leary, Nicholas Otes, Charles Bellamy, Hugh Black, John Jacobson, Matt Jacobson, Lewis Johnson, James Kenkin, J. H. Jenkin, J. J. Galvin, John Gill, Perley J. Burns, John Stevens, Jacob Dollar, Patrick Kennedy, Gorge Marlin, William Eddy, Thomas J. Shoupes, Edward Thomas, Herman Baumgart, Anson Schrelinse, James W. Whitford, M. J. Sullivan, Richard Sullivan, Jerry McCarthy, S. A. Caygill, Thomas F. Rowe, Joseph Dillon, James Pursell, Paul Rewsoh, James Hy Hosking, W. J. Warren, James Egan, Pat Ambrose, John Ferlick, Dennis O'Brien, Thomas Rafferty, Em Badulovich, Michael O'Neill, James Cacking, George Tuckett, J. C. Williams, Richard Hancock, Lawrence Groulx, William Scandling, Oscar Jackson, John Simson,



Charles Johnson, M. J. Harrington, William Eva, Ed King, John J. Murphy, W. J. Richards, Griffity D. Thomas, Fred Southcombe, John McKenna, Mike McGovern, Pat Cronin, W. E. Littor, Andrew E. Johnson, Antone Castagur, John A. Byrne, C. W. Price, Pat C. Lowney, Maurice Stack, John Donaghy, William J. Bray, James Frill, R. J. Cooper, Pat McGonigle, [147] T. J. O'Neill, Tim D. Murphy, Reddy H. Welsh, Tim J. Harrington, Pat Harrington, James E. Lowney, Frank Escallier, P. S. Smith, Owen N. Caw, Henry Takson, Henrick Johnson, P. E. Delaney, A. D. McDonald, J. J. McDonald, John Donovan, Thomas Hurley, Aldred Matson, Joe Spedey, John J. Lowney, John D. Shea, Pat Rock, G. H. Giles, John Catella, Dan Purphy, Batteta Orri-gani, Michael Leonard, John Holland, Ed. Houley, Harry Egan, Dennis Harrington, Patrick Cloonan, William E. Sears, Michael Toohey, James Donahue, John Sullivan, Con P. Sullivan, Pat K. Kennedy, Dan Lynch, Charles Brown, Ed. Wilkenson, William Murrish, Mike J. Shea, Jerry D. Sullivan, Dennis R. Sullivan, Pat Simon, Mike Learly, George Brozovich, James O'Donnell, Frank E. Hand, Jas. Juvan, Frank Raux, Dan Driscoll, J. C. Dvanny, Antone Rousal, John Trent, Matt Ravici, Gl. Manichucci, Thomas Jewel, Gus Nelson, Angelo Pera, Frank Ayers, Gus Petrich, Oscar Johnson, Percy Smith, Tim McCarthy, Frank Bell, William Crowley, James Numanly, John J. Dwyer, James Stapleton, Richard Johns, Steph Couch, John P. Holden, S. Tippitt, James Lehy, Con McLoughlan, Thomas H. Holman, Matt Niema, Mike Brannan, John Ardinsome, John



Bradley, Jerry W. Sullivan, T. E. Finnegan, Phillip Luata, Joseph Mellican, Fred Walters, Henry McDermott, John P. Harrington, Joseph Turk, Joe Ritson, J. B. Ritson, Ed J. Lowney, Thomas Meaney, Martin Boyan, J. P. McGowan, William Wall, Ed. F. Sullivan, Alex J. McDonald, Mike McCarty, J. F. Olsen, Pat Cotter, Mike Cotter, Ed Menhennet, Darby Hastings, John Stecham, W. Y. Nicholas, W. B. Richards, Alfred Trescottich, William Erickson, James M. Callion, John G. Hanock, A. J. Crone, Edwin Attield, Anthony Sharkey, Wm. Muldare, John Guy, Martin Kennedy, Pat J. Brennan, Maurice Lowney, Jerry C. Murphy, John Walley, Has Eggurm, Mike Matson, Elias Maky, R. D. Angove, Richard Skerer, George Peoplas, Pat Buckley, Frank Hart, Samuel Treloar, Alex McMahan, Mike Carrig, Owen O'Conner, Peter Mandich, Mike Ryan, William J. Bryany, Gordon English, Mike John Holm, John Tramer, Matt Mehar, Maurice Hurley, Joe Merrick, Nels Gravelle, Tom O'Marra, Owen Twohey, [148] John Neisi, John Darragh, Peter Bergman, Radan A. E. Rollin, Tom Hennessy, Stephen Thomas, Eugene Terrell, Fred Richards, J. Y. Argemedede, Anton Tinetti, John Tippet, Paul Schultz, John McGrath, E. Parini, Miles Ferrich, Thomas Hilling, William Hocking, George G. Marshall, James Leon, Barney Leary, Miles Lyons, Richard R. Jones, John Trevolsock, Nick Hermo-nach, Gust Tuline, Bat Shea, D. Olnstead, John Williams, Jerry B. Harrington, Ben Moran, Albert Traise, Eugen Murphy, Henry Scanlon, Phil Garrity, John Silovitch, Tim J. O'Leary, Heny Terna,

Michael Keeshen, J. J. Willcox, Boutal, Henry P. Sullivan, Joe McDonough, John P. Hanely, Dennis Ryan, Oswald Barry, D. D. Evans, Steve Lee, C. Charles Wellman, William Grant, John Slavin, A. Guelfi, John Barei, James Johnston, Thomas Meekoyoh, Mike D. Sheehan, Thomas Gilroy, Mike McGisern, William Pollard, James Marron, John Dillon, Alfred Willoughby, Thomas F. Gleson, Thomas Bullock, Barney Gaffney, Thomas H. Barker, Nick Tepich, John P. Yelish, Nicholes Byrne, George M. Clark, John L. Loughlin, Steward Workman, Dan Driscoll, J. H. Dreyfus, Pat D. Shea, C. V. Olsen, J. W. Jacobson, G. H. Kent, J. W. Swift, James Hart, Lewis B. Ebeder, Antone Curatto, George Ferguson, Dan Carroll, Joseph Balkovotz, Alfred Rogers, Dennis P. Sheehan, Peter B. Ralpj, Pat O'Neill, Paul E. Hoffman, Charles E. Grund, John A. Curran, Ed Lamerton, James D. Reill, Mur Pasala, Jacob Soda, William Conningham, Mike Ryan, W. B. Gnos, A. McGuire, Mike Conway, Thomas A. Fitzgerald, John Chim, Jerry P. Murphy, Peter McDermott, Peter Marron, James Shea, Antonini Guisi, John Herron, James Gillmore, H. A. Fitzpatrick, Mike McMahan, James M. Gleason, James P. Gleason, Charles R. Connolly, Arthur Sampson, Alfonsus Henneberry, Phillip Gunn, James Ryan, Michael Leary, Peter Leary, Peter Tobin, James McDermott, H. E. McManus, D. H. Kehoe. [149]

In the matter of the Extension of the corporate existence of "The Miners' Union" a corporation, existing, by and with the consent in writing of two-thirds of its members, first had,

State of Montana,  
County of Silver Bow,—ss.

We, the undersigned, W. H. Eddy, President of "The Miners' Union," Frank O'Connor, Secretary of "The Miners' Union, and W. H. LaDuke, J. J. Quinn, F. W. McKeon, Charles O'Brien, and John Shea, Trustees of "The Miners' Union," do hereby certify, That "The Miners' Union" is a corporation existing under and by virtue of the laws of the Territory of Montana. That articles of incorporation of "The Miners' Union" was filed in the office of the County Clerk of Silver Bow, Territory of Montana, on the 4th day of May, 1881, and that the said corporation is now in full force and effect and existence.

That a majority of all the members of "The Miners' Union" have given their consent in writing, and elected to continue the corporation of said Union, and consented in writing, and elected to continue the corporate existence of "The Miners' Union," under and by virtue of the provisions of the Civil Code of the State of Montana, applicable thereto, as provided for by Section 400 of the Civil Code of the said State of Montana, That such consent and election and the proceedings had thereon has been filed in the office of the County Clerk and Recorder of the County of Silver Bow, State of Montana, duly certified to by the President, Secretary and Trustees of "The Miners' Union" and a copy thereof filed in the office of the Secretary of State of Montana, certified to by the County Clerk and Re-

corder of the County of Silver Bow, State of Montana,

We, Further certify, That two-thirds of all the members of "The Miners' Union" have assented in writing, and authorized and instructed the President, Secretary and Trustees, to extend the corporate [150] existence of "The Miners' Union," for a period of Twenty Years from the 4th day of May, 1901, that being the date on which its corporate existence will expire,

And we, further certify, that two-thirds of all the members of "The Miners' Union" have given their consent in writing, to extend the corporate existence of "The Miners' Union" for a period of twenty years from and after the expiration of its corporate existence, and from and after the 4th day of May, A. D. 1901,

That, the above and foregoing transcript is a full and true and correct transcript and copy of the proceedings had for the purpose of extending the corporate existence of "The Miners' Union" and consists of eighteen pages, That two-thirds of all the members of "The Miners' Union" signed their names thereto and gave their consent in writing to extend the corporate existence of "The Miners' Union" for a period of twenty years from the 4th day of May, A. D. 1901.

That the originals of such consent in writing is now on file in the office of "The Miners' Union."

In witness whereof, We have hereunto set our hands and seals and caused to be affixed hereunto the



corporate seal of "The Miners' Union" this 8th day of February, A. D. 1901.

W. H. EDDY, (Seal)

President of "The Miners' Union."

FRANK O'CONNOR, (Seal)

Secretary of "The Miners' Union."

W. H. Le DUKE, (Seal)

JOHN J. QUINN, (Seal)

[Corporate

Seal]

F. W. McKEON, (Seal)

JOHN SHEA, (Seal)

CHARLES O'BRIEN, (Seal)

Trustees of "The Miners' Union." [151]

### EXHIBIT III.

At a regular meeting of The Miners' Union, of Butte, Montana, held at the headquarters of said Union at 217 N. Main, Butte, Montana, on Tuesday, the 11th day of August, 1914, the following resolution was introduced by Mr. Pat Lee:

WHEREAS, The Butte Miners' Union was organized on the 13th day of June, 1878, under the name of Butte Miners' Union, and

WHEREAS, The same was duly incorporated on the 4th day of May, 1881, under the name of "The Miners' Union," the word "Butte" having been inadvertently left out; and

WHEREAS, for a period of 36 years the said Union has been generally known and designated as "The Butte Miners' Union," and;

WHEREAS, a number of actions were instituted and prosecuted in behalf of said Union under the name of "The Butte Miners' Union," and



WHEREAS, the mistake in the incorporating of the said Union was not discovered until very recently; and,

WHEREAS, it is necessary for the protection of this Union and the interests of its members, that the corporate name be amended to read "The Butte Miners' Union," the better to protect out interests;

Therefore, BE IT RESOLVED, that The Butte Miners' Union, incorporated as aforesaid under the name of "The Miners' Union" in regular meeting assembled, hereby authorize, instruct and direct our Trustee to immediately take such steps as are necessary to amend the articles of incorporation by inserting the word "Butte" after the word "The" in the articles of incorporation, so that the same will read, "The Butte Miners' Union."

Whereupon, upon motion of the said Mr. James Ryan, seconded by Mr. Walter Little, the said resolution was put to a vote of the meeting and duly carried, and so declared by the Chair.

We, the undersigned, being respectively the President and Secretary of The Miners' Union of Butte, Montana, generally known as [152] The Butte Miners' Union, DO HEREBY CERTIFY; That the above is a full, true and correct copy of a resolution duly introduced and passed at a regular meeting of the said union, held at the headquarters of said Union on Tuesday, the 11th day of August, A. D. 1914, at Butte, Montana.

FRANK O'CONNOR,  
President.

[Corporate Seal]

Attest: PAT O'NEILL, Secretary.

At a special meeting of the Board of Trustees of "The Miners' Union," of Butte, Montana, generally known at "The Butte Miners' Union," duly called, held at the headquarters of the Union, on Tuesday, the 11th day of August, 1914, at which said meeting there were present the following Trustees: M. A. Sullivan, Frank Martin, James Walsh, James Ryan, constituting a majority of the Board of Trustees of said Union, there was presented to the meeting by Mr. ————— the following resolution, heretofore, on this day, passed by the members of said Union at a regular meeting thereof, to wit:

"WHEREAS, The Butte Miners' Union was organized on the 13th day of June, 1878, under the name of Butte Miners' Union; and,

"WHEREAS, the same was duly incorporated on the 4th day of May, 1881, under the name of "The Miners' Union," the word "Butte" having been inadvertently left out, and

"WHEREAS, for a period of 36 years the said Union has been generally known and designated as "The Butte Miners' Union," and,

"WHEREAS, a number of actions were instituted and prosecuted in behalf of said Union, under the name of "The Butte Miners' Union," and, [153]

"WHEREAS, the mistake in the incorporating of the said Union was not discovered until very recently, and,

"WHEREAS, it is necessary for the protection of this Union and the interests of its members, that the corporate name be amended to read "The Butte Miners' Union," the better to protect our interests;

THEREFORE, BE IT RESOLVED, that The Butte Miners' Union, incorporated as aforesaid under the name of "The Miners' Union," in regular meeting assembled, hereby authorize, instruct and direct our Trustees to immediately take such steps as are necessary to amend the articles of incorporation by inserting the word "Butte" after the word "The" in the articles of incorporation, so that the same will read, "The Butte Miners' Union."

Whereupon, Mr. Frank Martin introduced the following resolution:

"Whereas, It has been brought to the attention of the Butte Miners' Union and the Trustees thereof, that for the reasons set forth in the resolution of the members of said Union, this day passed, and set out in the minutes of this meeting, it is desirable and necessary to change the name of said Union from "The Miners' Union," to "The Butte Miners' Union";

THEREFORE, BE IT RESOLVED, that the name of said Union be and the same is hereby changed so as to read, "The Butte Miners' Union," instead of "The Miners' Union"; and

BE IT FURTHER RESOLVED that a certified copy of these proceedings be immediately filed with the Secretary of State of the State of Montana, and a certified copy thereof filed with the Clerk and Recorder of Silver Bow County, State of Montana, in accordance with the provisions of Section 3912 of the Revised Codes of Montana, as amended by the Eleventh Session, Laws of Montana, page 135." [154]

Upon motion of Mr. James Ryan, seconded by Mr.

James Walsh, the said resolution was put to a vote of the meeting and unanimously carried, and so declared by the Chair.

We, the undersigned, constituting the Board of Trustees of "The Miners' Union," HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the minutes of a special meeting of the Board of Trustees of said Union, held at the headquarters of said Union, in the City of Butte, County of Silver Bow, State of Montana, on Tuesday, August 8th, 1914.

M. A. SULLIVAN,

Char.

[Corporate Seal] Attest: JAMES WALSH,

Secretary.

FRANK MARTIN,

JAMES RYAN,

Constituting the Board of Trustees of "The Miners' Union," generally known as "The Butte Miners' Union." [155]

## EXHIBIT IV.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a  
Voluntary Organization, Association of Per-  
sons, With Its Headquarters in the City and  
County of Denver, State of Colorado, and  
CHARLES H. MOYER, President of the  
Western Federation of Miners, a Voluntary  
Organization and Association of Persons  
With Its Headquarters in the City and  
County of Denver, and State of Colorado;  
GUY E. MILLER and ED. O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,  
Defendants.

**Amended Complaint.**

Plaintiffs complain of defendants, leave of Court  
being had and obtained to file this amended com-  
plaint and for cause of action allege:

I. That the Western Federation of Miners is a  
voluntary organization of persons engaged in the  
mining, milling and reduction of ores and minerals,  
and about the mining, milling and reduction of ores  
and minerals, with its headquarters in the City and



County of Denver, in the State of Colorado; and that Charles H. Moyer is the duly elected, qualified and acting President of said Western Federation of Miners; and that said Western Federation of Miners is made up of different local unions, or organizations, in different states and territories in the United States of America, the members of which local unions are members of the Western Federation of Miners; and that the said Western Federation of Miners issues to the different local unions which are parts of the Western Federation of Miners, a charter for the regulation and conduct of said different local union, and has a constitution and by-laws therefor. [156]

II. That The Butte Miners' Union is a corporation existing under and by virtue of the laws of the State of Montana, the membership of which corporation is composed of persons engaged in mining, milling, smelting and handling of ores and minerals, and that the members of said Butte Miners' Union, a corporation, are members of the Western Federation of Miners; and that on the 22d day of September, A. D. 1914, The Butte Miners' Union, a corporation as aforesaid, and the members thereof, by and through its said members and officers, petitioned the said Western Federation of Miners, a voluntary association and organization as aforesaid, for the issuance to said Butte Miners' Union of a charter, a copy of which petition is hereunto annexed, marked exhibit "A," and made a part of this complaint; that thereafter, on the 3d day of October, 1914, under and by virtue of the Constitution and By-laws of the Western Federation of Miners, a voluntary organiza-

tion and association as aforesaid, Western Federation of Miners, issued to the Butte Miners' Union, a corporation, and its members, a charter, a copy of which said charter is hereunto annexed, marked exhibit "B" and made a part of this complaint, which said charter was accepted by the said Butte Miners' Union, a corporation, and its members.

III. That there is a provision of the Constitution of the Western Federation of Miners for the government of said Western Federation of Miners and the local unions belonging to said Western Federation of Miners and the membership thereof, as follows, to wit:

#### "AMENDMENT

Amend by adding to the 'Duties of President', in Art. 4, Sec. 1, after the word 'Miners,' page 9, line 37:

"The President shall have power on petition of ten per cent of the members in good standing in their respective locals making charges in writing against their local officers to take complete charge of the local's affairs, and if the charges are proven he shall call a special election within 30 days and place [157] local's affairs on a business basis before relinquishing to local's officials."

That The Butte Miners' Union, by and through the vote of its membership, at an election duly and regularly held, adopted the aforesaid provision of the Constitution of the Western Federation of Miners as a part of the rules and regulations, for the government of the Butte Miners' Union, and membership thereof.

IV. That thereafter and on the 23d day of November, A. D. 1914, and in accordance with said provision of said constitution and by-laws hereinbefore set forth, charges in writing, a copy of which said charges is hereunto annexed, marked exhibit "C," and made a part of this complaint were preferred against the officers of the Butte Miners' Union, a corporation, who are the defendants above named, to wit: Martin Scahill, President, Patrick Lee, Secretary Treasurer, Patrick O'Neill, Recording Secretary, Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, Trustees, and were presented to Charles H. Moyer, President of the Western Federation of Miners, and Charles H. Moyer, President of the Western Federation of Miners, was petitioned to take complete charge of the affairs of the Butte Miners' Union, a corporation, in accordance with the aforesaid provision of the constitution of the Western Federation of Miners.

IV-A. That the said charges hereinbefore set forth are signed by ten per cent (10%) of the membership of the Butte Miners' Union, a corporation, and that the said charges are based upon the conduct and actions of the defendants, herein named, the said conduct and actions being that the said defendants have wilfully, unlawfully, wrongfully and without warrant of authority, lavishly, improvidently, and without due regard to the rights of the membership of The Butte Miners' Union, a corporation, expended, paid out, and disposed of the money belonging to the Butte Miners' Union, and have failed and neglected and refused to properly account for the

[158] money so expended, and have allowed and permitted persons not members in good standing of The Butte Miners' Union, a corporation, to participate in the meetings of The Butte Miners' Union, a corporation, to vote therein and to have a voice therein in the government and affairs of The Butte Miners' Union, a corporation; that they continually expended the money of The Butte Miners' Union, for unnecessary purposes and have paid out, in this connection, unnecessary and exorbitant salaries to divers and sundry persons without due regard for the welfare and protection of the interests of the membership of The Butte Miners' Union, a corporation; that they have, by their acts, wrongfully, almost completely depleted the sick relief fund of The Butte Miners' Union, a corporation, which fund is for the use and benefit of sick and disabled members of The Butte Miners' Union in good standing and that said defendants still persist in doing the above-mentioned acts and in preventing these plaintiffs and particularly the plaintiff Ed. O'Byrne, and the members of The Butte Miners' Union, a corporation, who signed the charges and petition against said officers, from having the affairs and conduct of The Butte Miners' Union, a corporation, run and conducted in a just and lawful manner in accordance with the by-laws and constitution, for the government thereof.

V. That thereafter, on the 8th day of December, 1914, Guy E. Miller, one of the plaintiffs above named, as the true and lawful attorney in fact of Charles H. Moyer, President of the Western Federation of Miners as aforesaid, holding a power of at-



torney from said Charles H. Moyer, President of the Western Federation of Miners as aforesaid, a copy of which power of attorney is hereunto annexed marked exhibit "D," and made a part of this complaint, at a regular meeting of the members of The Butte Miners' Union, a corporation, presented the said charges and demanded that the aforesaid officers of said union, to wit: Martin Seahill, President; Patrick Lee, Secretary-Treasurer; Patrick O'Neill, Recording Secretary; Mike A. Sullivan, James Ryan, James Walsh, and Patrick Quigley, Trustees; [159] conform to said by-laws and constitution of the Western Federation of Miners, and The Butte Miners' Union, and place in the hands of said Charles H. Moyer, President as aforesaid, pending the determination of the above-mentioned charges and petition and the election of new officers, if said charges shall be found to be true, the affairs and business of said The Butte Miners' Union, a corporation as aforesaid, and the books and property thereof, for the purpose of safe-keeping and preservation, in the interest of said members of the corporation. That notwithstanding the presentation of said charges and petition as aforesaid, and the provisions of the constitution and by-laws, aforesaid, of the said Western Federation of Miners, and of said The Butte Miners' Union, a corporation, the aforesaid defendants have failed, refused and neglected, and have prevented, and are now preventing and threaten to continue to prevent the said Charles H. Moyer, President of the Western Federation of Miners, as aforesaid, from taking charge of, control



of, the affairs and business of The Butte Miners' Union, a corporation, as aforesaid, pending the determination of the said charges and the election of new officers by the members of said The Butte Miners' Union, if the said charges shall be found true; and that the said Martin Seahill, President; Patrick Lee, Secretary-Treasurer; Patrick O'Neill, Recording Secretary; Mike A. Sullivan, James Ryan, James Walsh, and Patrick Quigley, Trustees, continue to use the property of The Butte Miners' Union, a corporation, as aforesaid, to draw its funds and moneys from the banks in which the same has been deposited, and to handle and take charge of the property and money, and prevent and threaten to continue to prevent the said Charles H. Moyer, President of the Western Federation of Miners, and his duly appointed, qualified and acting attorney in fact, from taking possession thereof, in accordance with the hereinbefore set forth charter, constitution and by-laws of said Western Federation of Miners and The Butte Miners' Union, a corporation, all to the irreparable loss [160] and injury of the Western Federation of Miners, a voluntary association, as aforesaid, and the membership of The Butte Miners' Union, a corporation of which Ed. O'Byrne, one of the plaintiffs above named is, and at all times herein mentioned has been, a member in good standing.

VI. That the defendants are without any money or means with which to respond in damages herein and to make good any loss and injury that has occurred, and will occur, through their actions hereinbefore set forth.

VII. That Ed. O'Byrne, one of the plaintiffs herein, is a member of The Butte Miners' Union, a corporation, and one of the persons who signed the charges against the defendants above named, the officers of The Butte Miners Union, a corporation, having paid his dues and assessments thereto, and that he is a member of the Western Federation of Miners, a voluntary association and organization, as aforesaid, and interested in its affairs.

VIII. That Guy E. Miller, one of the plaintiffs herein, is a member of the Western Federation of Miners, and interested in its affairs.

IX. That there is no plain, speedy, or adequate remedy at law whereby the rights of these plaintiffs and of the membership of The Butte Miners' Union, a corporation, and of the Western Federation of Miners', a voluntary organization and association, as aforesaid, can be protected.

WHEREFORE: Plaintiffs pray judgment of this Honorable Court that this Court make its order temporarily restraining the defendants herein, their agents, servants, employees and attorneys, or any one acting for or in their behalf, or under their direction, from in any way interfering with these plaintiffs in the possession and control of the property of The Butte Miners' Union, a corporation, or the prosecution of the business and [161] affairs of The Butte Miners' Union, a corporation; and that this Court fix a day and time certain wherein the defendants herein, and each and all of them, shall be commanded to show cause, if any they have, before this Honorable Court, why they and their agents,

servants and employees and attorneys, and every one acting for and in their behalf, or under their direction and control, should not be permanently restrained and enjoined from in any way interfering with these plaintiffs and the members of the plaintiff organization in the possession and control of the property and affairs of The Butte Miners' Union, a corporation, pending the determination of the charges filed against the officers of said corporation and the holding and conducting of an election by the members of said corporation are found and proven to be true, and from putting the business of The Butte Miners' Union, a corporation, on a business basis.

CANNING & GEAGAN, and  
E. P. KELLY,

Attorneys for Plaintiffs.

State of Montana,  
County of Silver Bow,—ss.

Guy E. Miller and Ed. O'Byrne, being first duly sworn, says: That they are two of the plaintiffs above named; that they have read the complaint, knows the contents thereof, and that the facts, matters and things therein stated are true of their own knowledge.

GUY E. MILLER,  
ED. O'BYRNE.

Subscribed and sworn to before me this 8th day of Feb. A. D., 1915.

[Notarial Seal]

P. E. GEAGAN.

Notary Public for the State of Montana; Residing at Butte, Montana.

My commission expires Jan. 13, 1918. [162]

EXHIBIT "A."

To the President of the Western Federation of Miners, Dennam Building, Denver, Colorado.

The Butte Miners' Union, a corporation, organized and existing under and by authority of the laws of the State of Montana, at a regular meeting held at the headquarters of the said corporation, 217 North Main Street, Butte, Montana, on the 22d day of September, 1914, by a majority vote of its membership present at said meeting passed a resolution *direction* and instructing its president, secretary and Board of Directors or Trustees, to apply to the Western Federation of Miners, for a reissuance of a charter to the said corporation to take the place of its first charter recently lost or destroyed, and said resolution empowered and authorized its aforesaid officers to take all necessary steps and *to* all necessary things in order to procure said charter.

Now, therefore we, Frank O'Connor, President, Pat O'Neill, Secretary, and Mike A. Sullivan, James Walsh, James Ryan, Frank Martin, Pat Quigley, constituting the Board of Directors or Trustees of the said corporation, pursuant to the said resolution, and by authority thereof, hereby make application to you for the reissuance of a charter for a local union to be issued to the said corporation, which shall be known as the Butte Miners' Union, No. 1, Western Federation of Miners, which shall take the place of its first charter recently lost or destroyed.

It is hereby agreed in the acceptance of the said charter that the aforesaid corporation shall conform to all of its provisions and that the same are fully



understood, and to the constitution, by-laws, rules and regulations of the Western Federation of Miners.

IN TESTIMONY WHEREOF, the said corporation has caused this application to be signed by its President, Secretary and Board of Directors or Trustees, and its corporate seal to be attached thereto [163] this 22d day of September, 1914.

THE BUTTE MINERS' UNION, a Corporation,

FRANK O'CONNOR,  
President.

PAT O'NEILL,  
Secretary.

M. A. SULLIVAN,  
JAMES WALSH,  
JAS. J. RYAN,  
Board of Directors or Trustees.

#### EXHIBIT "B."

#### WESTERN FEDERATION OF MINERS' CHARTER.

KNOW ALL MEN BY THESE PRESENTS, That acting under the authority vested in us by the laws of the above-named organization, we, the undersigned, do hereby grant this Charter to Butte Miners' Union, a corporation, to be hereafter known and designated as the BUTTE MINERS' UNION NO. 1, WESTERN FEDERATION OF MINERS,

TO BE HELD BY THEM AND THEIR SUCCESSORS, And the aforesaid Union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership,



any person or persons lawfully proposed and elected in accordance with the constitution, rules and regulations of the Western Federation of Miners. It is hereby agreed in the acceptance of this Charter that the aforesaid union shall conform to the constitution, rules and regulations, and in default thereof, this charter may be revoked and the union suspended from all rights, and benefits, according to the laws of the Western Federation of Miners, and further it is agreed that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners. [164]

In consideration of the due and faithful performance of the foregoing stipulations, the Western Federation of Miners do bind themselves to sustain said union in the exercise of all rights, privileges and benefits, as a local union under its protection.

IN WITNESS WHEREOF, We have subscribed our names and affixed *out* Seal of the Western Federation of Miners this Third day of October, 1914.

The Butte Miners' Union, organized June 13, 1878.

Original W. F. M. Charter, dated May 15, 1893.

Chas. H. Moyer,

President.

Earnest Mills,

Secretary-Treasurer.

EXHIBIT "C."

Butte, Mont., Nov. 23d, 1914.

To Chas. H. Moyer, President of the Western Federation of Miners, Denver, Colorado.

We, the undersigned members of Butte Miners'

Union, No. 1, W. F. of M. hereby petition you under the constitution to take full and complete charge of the affairs of this union and submit as our reasons for requesting such action, that the officials and trustees of said union have been and are acting in violation of the constitution of Butte Miners' Union and of the Western Federation of Miners and further that there has been utter inefficiency and disregard of the best interests of the organization and the principles of unionism.

We submit the following: (1) Violation of the constitution by packing the meeting with men in arrears, some of whose names were not on the books of the union, giving them a voice and vote in matters of great importance. (2) Refusal of Secretary-Treasurer aided and abetted by the president to submit books and accounts for examination. (3) Failure of walking delegates to render any report to the union or put forth reasonable efforts to increase the membership of this union. (4) Stamps on members' cards without [165] entry on books of receipt. (6) Willful waste in disbursing of funds, especially the sick relief, the constitutional notice to secretary not being complied with. (7) That indifference to the welfare of the organization is clearly manifested by the failure of various officials and trustees to keep in good standing.

Tim J. Lynch	Ed O'Byrne	J. C. Lowney
A. M. Maletto	Jalmer Koskinen	F. H. Shields
John Pearson	E. G. Huntley	Oskar Karri
Wm. Louma	John Toomey	Dan O'Leary
Mike Harrington	Denniss Murphy	Jacob Oliver
Charles Baxter	W. H. Schauf	Patrick King

## EXHIBIT "D."

## POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That, I, Charles H. Moyer, President of the Western Federation of Miners, a voluntary organization with its headquarters in the City and County of Denver, State of Colorado, acting under the authority and power vested in *may* by the constitution of the Western Federation of Miners have made, constituted and appointed, and by these presents do make, constitute and appoint Guy E. Miller, of the City of Butte, State of Montana, my true and lawful attorney, for me and in my name, place and stead, to take complete charge of the affairs including all books and papers, of the Butte Miners' Union, a corporation existing under and by authority of the laws of the State of Montana, whose headquarters are at 217 North Main Street, Butte, Montana, and to receive and file any and all charges that may be made against the local officers of said Union and to transmit the same or a copy thereof, to me, and to collect and receive any and all moneys which shall be due, owing and payable and belonging to the said Butte Miners' Union; and in [166] my name represent before any judge or minister of the law whatsoever, and in any court or courts of judicature, and on my behalf prosecute for any debts, fraud and any manner of claims that the said Butte Miners' Union may have against any person or persons and to answer, and defend all actions or causes whatsoever relating to the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitu-

tion and revocation, hereby ratifying and confirming, and holding valid all that my said attorney shall lawful do or cause to be done by virtue of these presents.

Witness my hand and seal at Denver, Colo., this 7th day of December, A. D. 1914.

CHAS. H. MOYER,

President Western Federation of Miners.

State of Colorado,

City and County of Denver,—ss.

I, Fannie M. Patterson, a Notary Public in and for the City, County and State aforesaid, do hereby certify that Charles H. Moyer, who is personally known to me to be the person whose name is subscribed to the within power of attorney, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7th day of December, A. D. 1914.

My commission expires May 6th, 1915.

[Notarial Seal] FANNIE M. PATTERSON,

Notary Public.

Service of the foregoing amended complaint acknowledged and copy received this 8th day of February, 1915.

A. C. McDANIEL,

PETER BREEN,

Attorneys for Defendants.

[Endorsed]: Filed Feb. 8, 1915. [167]

EXHIBIT V.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, and CHARLES  
H. MOYER, President of the Western Federa-  
of Miners, a Voluntary Organization and As-  
sociation of Persons, With Its Headquarters in  
the City and County of Denver, and State  
of Colorado; GUY E. MILLER and ED.  
O'BYRNE,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

ANSWER TO AMENDED COMPLAINT.

Comes now the above-named defendants, Martin  
Seahill, Patrick Lee, Patrick O'Neill, Mike A. Sulli-  
van, James Ryan, James Walsh and Patrick Quigley,  
and answering the complaint of plaintiff on file here-  
in, admit, deny and allege as follows, to wit:

1. Deny all the *obligations* contained in para-  
graph 1 of plaintiffs' amended complaint.
2. Admits all the allegations contained in para-



graph 11 of plaintiffs' amended complaint.

3. Answering paragraph III of plaintiffs' amended complaint these defendants deny all the allegations contained in said paragraph III.

4. Deny any knowledge for information thereof sufficient to form a belief as to the allegations set forth in paragraph IV of plaintiffs' amended complaint.

5. Deny all of the allegations contained in paragraph IV-A of plaintiffs' amended complaint.

6. Deny each and all of the allegations contained in paragraph V of plaintiffs' amended complaint, save and except that [168] these answering defendants have, for a long time past, and are still attempting to prevent the said Charles H. Moyer, mentioned in said paragraph, or any other person acting in collusion with him or representing him, from getting possession or control of the moneys or property of The Butte Mners' Union, a Corporation.

7. Deny all the allegations contained in paragraph VI of plaintiffs' amended complaint.

8. Admits that the plaintiff Ed. O'Bryne is a member of The Butte Miners' Union, a corporation, as set forth in paragraph VII of plaintiffs' amended complaint, but save as is herein admitted, these answering defendants deny any knowledge or information thereof sufficient to form a belief as to all other allegations set forth in said paragraph VII of plaintiffs' amended complaint.

9. Deny all the allegations contained in paragraph VIII of plaintiffs' amended complaint.

10. Deny all the allegations contained in para-

graph XI of plaintiffs' amended complaint.

11. Save as is herein specifically admitted or denied these answering defendants deny each and every allegation contained in plaintiffs' amended complaint.

WHEREFORE, having fully answered, these answering defendants, pray that the said plaintiffs take nothing by this action and that they be given their costs herein expended.

Further answering and as an affirmative defense to the amended complaint of plaintiff, these answering defendants allege:

1. That they are now and have been during all of these times herein mentioned in plaintiffs' amended complaint, members in good standing of the Butte Miners' Union, a corporation.

2. That the said The Butte Miners' Union, now is and has been during all of the times herein mentioned in plaintiffs amended complaint, and ever since the 4th day of May, 1881, a corporation, duly organized and existing under and by virtue of the laws of the State of Montana, with its place of business in the City of [169] Butte, County of Silver Bow, State of Montana.

3. That the defendant Martin Scahill is now and has been during all of the times herein mentioned in plaintiffs' amended complaint, the duly elected, qualified and acting president of The Butte Miners' Union, a corporation; that the defendant, Patrick Lee, during all of the times herein mentioned in plaintiffs' amended complaint has been, and now is the duly elected, qualified and acting secretary-treasurer of The Butte Miners' Union, a corporation;

that the defendant Patrick O'Neill is now and has been during all of the times herein mentioned, the duly elected, qualified and acting recording secretary of The Butte Miners' Union, a corporation; that the defendant Mike A. Sullivan is now, as has been during all of the times herein mentioned in the amended complaint of plaintiff, the duly elected, qualified and acting chairman of the Board of Trustees of the Butte Miners' Union, a corporation; that the defendant Patrick Quigley, is now and has been during all of the times herein mentioned, a duly elected, qualified and acting member of the Board of Trustees of The Butte Miners' Union, a corporation; that the defendants James Ryan and James Walsh were, at the commencement of this action, duly elected, qualified and acting members of the Board of Trustees of The Butte Miners' Union, a corporation.

4. That the above-named plaintiff, Western Federation of Miners, an alleged voluntary, organization association of persons, with its headquarters in the City and County of Denver, State of Colorado, was at one time, a *bona fide* labor organization composed of various local unions or organizations in different states and territories in the United States of America, also in Canada.

5. That on or about the — day of May, 1893, The Butte Miners' Union, a corporation, applied for a charter in said Western Federation of Miners and that thereafter, on or about the 15th day of May, 1893, a charter was duly issued to The Butte Miners' Union, a corporation, as aforesaid. [170]

6. That thereafter, on the 13th day of June, 1914, the charter issued by the Western Federation of Miners to The Butte Miners' Union, a corporation, was destroyed and that thereafter, on or about the 22d day of September, 1914, the said The Butte Miners' Union, a corporation, applied to the plaintiff, Western Federation of Miners for a duplicate of said charter, which was duly issued to the said The Butte Miners' Union, a corporation, on or about the 3d day of October, 1914.

7. That between the 15th day of May, 1893, the date of issuance of the first charter and the 1st day of December, 1914, The Butte Miners' Union, a corporation, as aforesaid has paid to the plaintiff Western Federation of Miners, as per capita tax, assessments levied and donations appealed for, a sum in excess of One Million (\$1,000,000) Dollars.

8. That the said The Butte Miners' Union, a corporation, between the 1st day of July, 1913, and the first day of July, 1914, paid as assessments to the plaintiff Western Federation of Miners, One Hundred Thirty-eight Thousand Eight Hundred and Twenty-five and 60/100 (\$138,825.60) Dollars, donations, Twenty-one Hundred '(\$2100) Dollars, per capita, Seventeen Thousand Five Hundred (\$17,500) Dollars, supplies, Five Hundred (\$500) Dollars, amounting to the total sum of One Hundred Fifty-eight Thousand Nine Hundred and Twenty-five and 60/100 (\$158,925.60) Dollars.

9. That between January 5, 1914, and June 15th, of said year, in dues, assessments and donations, the said plaintiff Western Federation of Miners, received



the following sums of money from The Butte Miners' Union:

January	5.....	\$ 2,000.00
"	19.....	10,000.00
"	22.....	10,000.00
February	4.....	5,000.00
"	5.....	1,250.00
"	16.....	10,000.00
"	23.....	1,250.00
"	23.....	100.00
March	6.....	8,000.00
"	23.....	10,000.00
"	23.....	1,250.00

[171]

April	16.....	\$ 6,000.00
"	16.....	450.00
"	23.....	8,000.00
May	20.....	1,000.00
June	4.....	1,250.00
"	15.....	3,000.00

making a total of Seventy-eight Thousand Five Hundred and Fifty (\$78,550) Dollars.

10. That upon January 1, 1914, the plaintiff, Western Federation of Miners claimed that The Butte Miners' Union, a corporation, owed it a balance of Forty-four Thousand Two Hundred and Sixty-eight and 15/100 (\$44,268.15) Dollars, and from said date January 1, 1914, to June 2d of said year, the following additional amounts:

January	1.....	\$44,268.15
"	16.....	1,250.00
"	21.....	55.00



February	1.....	15,428.00
“	5.....	1,250.00
“	10.....	166.50
March	1.....	20,317.50
“	2.....	1,250.00
“	2.....	7.50
“	18.....	1,250.00
April	1.....	20,639.50
“	10.....	1,250.00
May	1.....	19,656.00
“	7.....	1,250.00
June	1.....	7,576.00
“	2.....	1,250.00

making a total amount owing from January 1, 1914, to June 2d, 1914, One Hundred Thirty-six Thousand Eight Hundred and Sixty-four and 65/100 (\$136,864.65) Dollars.

11. After receiving the said sum of Seventy-eight Thousand Five Hundred and Fifty (\$78,550) Dollars, in a period of six months, the said plaintiff, Western Federation of Miners, claim that at said time, to wit, June 13, 1914, there was due and owing from The Butte Miners' Union, a corporation, to the plaintiff, Western Federation of Miners, a balance of Sixty Thousand Four Hundred and Fifteen and 65/100 (\$60,415.65) Dollars.

12. These defendants further allege that during all of the times in which the said plaintiff, Western Federation of Miners, [172] demanded and received the said sums of money above set forth, from The Butte Miners' Union, a corporation, the said corporation was compelled to pay the said sums of

money to the said plaintiff through its officers and were not permitted to, at any time, send the money themselves, to the places wherein the said officers of the said plaintiff claimed it was wanted for and was to be sent.

13. These answering defendants further allege that through all of the years in which the said The Butte Miners' Union, a corporation, has worked under a charter from the said plaintiff, Western Federation of Miners, that it has not received one cent of benefit in any shape, manner or form from the said plaintiff, Western Federation of Miners.

14. These answering defendants further allege, that one or about the 15th day of May, 1893, the said The Butte Miners' Union, a corporation, had thousands of members and thousand of dollars in its treasury. That all of its members were working in harmony and that they enjoyed the respect, confidence and good will of all of the employers of miners in the County of Silver Bow, State of Montana, and its union cards were recognized and respected by all of them.

15. That because of the tyranny and many exactions of the said plaintiff, Western Federation of Miners, and the manner in which the money of The Butte Miners' Union, a Corporation, had been taken by the said plaintiff, The Western Federation of Miners, without any return to The Butte Miners' Union, a corporation, dissatisfaction was created among its members and the citizens of Silver Bow County to such an extent that they revolted on the 13th day of June, 1914, and later on the 23d day of

said month, with the plaintiff, Charles H. Moyer, came to Butte to run the business of The Butte Miners' Union, a Corporation, assisted by many others, they again revolted, destroyed a large amount of property of The Butte Miners' Union, a Corporation, and attempted to capture and hang the said plaintiff, Charles H. Moyer. [173]

16. That the said plaintiff, Charles H. Moyer, the pretended President of the pretended Western Federation of Miners, the said plaintiff, Guy E. Miller, the pretended attorney in fact of the said Charles H. Moyer, the said Ed. O'Byrne, and one John C. Lowney and one Charles Mahoney, have conspired and confederated themselves together with other members of the alleged and pretended executive board of the pretended Western Federation of Miners, for the purpose of plundering The Butte Miners' Union, a corporation, and getting possession of its funds and property, and appropriating the same to their, the said Moyer, Miller, Mahoney, Lowney and O'Byrne and others, own use.

17. That in furtherance of said conspiracy, the said Moyer, did, shortly after the 13th day of June, 1914, attempt to get possession of the money, the property of The Butte Miners' Union, a Corporation, on deposit in the banking-house of the Daly Bank and Trust Company, in Butte City, Montana, and in furtherance of said scheme of plunder did falsely and fraudulently represent to the said banking-house that it was his intention to remove the said moneys, the property of The Butte Miners' Union, a Corporation, to Denver, Colorado, for safe-keeping.

18. That the plaintiff, Western Federation of Miners, is no longer a *bona fide* labor organization. That it is but a pretense and a sham, whose only purpose is to attempt to collect moneys for the purpose of paying salaries, hotel bills *and* etc., so as to keep the above-named plaintiffs, Moyer, Miller, and the above-mentioned Lowney, Mahoney and O'Byrne, and others in idleness at the expense of the miners and others in the country, who yield to their persuasions or succumb to their bluffs.

19. That it has neither membership or standing in any of the former fields of its activity, nor its members recognized, except in the smelter of Anaconda and the stationary engineers of Butte. The said smeltermen and engineers being recognized upon their own [174] merits, and not because of their affiliations with the plaintiff, Western Federation of Miners. That since deprived of the donations and per capita of The Butte Miners' Union, a Corporation, it has not been able to pay its bills or meet its obligations in any manner, and has repeatedly appealed to The Butte Miners' Union, a Corporation, since the 13th day of June last, to advance it money to pay the bills contracted by it for gunmen to guard the said plaintiff Charles H. Moyer and others of its officers, and to pay the expense of the delegate elected by it to attend the convention held at Philadelphia. That it was unable to pay the bills for guns bought and borrowed by Moyer, upon and a few days prior to the 23d day of June, 1914, last, and lost by him and them upon the said date and the said bill was, upon the request of the plaintiff, Moyer, paid



by The Butte Miners' Union, a corporation.

20. That upon the last visit of the said Charles H. Moyer to Butte, he found it necessary to place gunmen upon the landings and in the halls leading to his room in the hotel in which he stopped and said bills, so contracted by him, were paid by the said The Butte Miners' Union, a Corporation. And if the plaintiff Moyer now came to Butte to take charge of the property of The Butte Miners' Union, a Corporation, it would require a large amount of money to supply him with guards.

21. That the said request for donations for payment of the numerous bills of the said plaintiff, Western Federation of Miners, and its officers, after the 13th day of June, 1914, became so numerous, expensive and burdensome that the loyal members of The Butte Miners' Union, a Corporation, who had remained loyal to it, during all of its troubles, refused to further vote money for the purpose of keeping Moyer and his associates living in idleness and luxury, and useless and expensive offices in the City of Denver, Colorado, hundreds of miles from a mine or miners' union, and boarding in the best hotels in the country and riding in [175] Pullman coaches, when the members of The Butte Miners' Union, a corporation, were idle and their families suffering want.

22. That all of these answering defendants are officers of The Butte Miners' Union, a corporation, and the members in good standing thereof refused to longer contribute the money of The Butte Miners' Union, a corporation, for the above-mentioned purposes, and thereby incurred the ill-will of the said



plaintiff, Western Federation of Miners, Charles H. Moyer, Guy E. Miller, Ed. O'Byrne, Charles Mahoney, J. C. Lowney, and others, who conspired and confederated together for the purpose of removing these answering defendants from office in The Butte Miners' Union, a corporation, and then wrecking the said union and appropriating its moneys and property to their own use, and for said purpose did attempt, through their paid tools, to bring proceedings to remove these defendants from office and discouraging others from assisting them in rebuilding The Butte Miners' Union, a corporation. And are now proclaiming through the press that they own the money of The Butte Miners' Union, a corporation, and will not permit the said union to rebuild its hall with its own money and credit.

23. That by reason of their acts and activities along this line, and by reason of the fear engendered in the minds of the legitimate miners of Silver Bow County, that their money would again be contributed to support the above-named plaintiff and their lackeys, they have refused to pay dues to The Butte Miners Union, a corporation, and the labor of these answering defendants have been multiplied many times.

24. That the said plaintiffs above named and those associated with them, have in every possible manner attempted to prevent The Butte Miners' Union, a corporation, from carrying on its business of protecting its members, burying their dead and caring for their sick have warned the banking-house wherein their money is deposited that if its checks are

honored, that they will bring suit against [176] the said bank for the recovery of money so paid out; have circulated many slanderous reports about these answering defendants, among others, that they were not officers of the union; that there was no union in existence, and that all moneys and properties of the said union was the property of the above-named plaintiffs.

25. These answering defendants further say: That if the plaintiffs above named are permitted to continue as they have been, that it will be impossible to build up The Butte Miners' Union, a corporation, or to increase its membership, finances or standing to what it was before.

26. That each and all of the above-named plaintiffs are insolvent; are without means, property or resources whatever, except what is secretly and privately concealed from public knowledge, and their unlawful acts can only result in great and irreparable injury to these answering defendants and to The Butte Miners' Union, a corporation, whose officers they are, and that unless restrained and enjoined from further interfering in any manner with The Butte Miners' Union, a corporation, or with its property or with these defendants in the conduct of the business of The Butte Miners' Union, a corporation, all of the interests and property they represent and are pledged to protect, will be destroyed.

27. That there is no plain, speedy or adequate remedy at law.

WHEREFORE, these answering defendants pray,

1. That the plaintiffs herein take nothing by this ac-

tion. 2. That the defendants be given judgment for their costs. 3. That during the pendency of this action, the plaintiffs herein, their servants, agents, attorneys and employees and all persons acting for them or by their authority or under their control, be temporarily restrained and enjoined from, in any manner, interfering with the business or property of The Butte Miners' Union, a corporation, or these defendants, or any of them, in the fulfillment of their duties as officers of The Butte Miners' Union, a corporation. [177] 4. That upon the final hearing of this case, that the said plaintiffs, and each of them, their servants, agents, attorneys and employees and all persons acting in their behalf or under their control, be permanently enjoined from, in any manner, interfering with The Butte Miners' Union, a corporation, or with its business affairs interfering in any manner whatsoever with these defendants or the conduct of the business of The Butte Miners' Union, a corporation.

A. C. McDANIEL and  
PETER BREEN.

State of Montana,  
County of Silver Bow,—ss.

Patrick Lee, being first duly sworn, says: That he is one of the defendants named in the foregoing answer; that he has read the said answer, knows the contents thereof, and that the same is true, except as to matters and things stated on information and belief, and as to these he believes it to be true.

PATRICK LEE.

Subscribed and sworn to before me this 19th day of February, 1915.

[Seal]

PETER BREEN,  
Notary Public for the State of Montana residing at  
Butte, Montana.

My commission expires June 2d, 1916.

Service of the foregoing answer acknowledged and copy received February 20th, 1915.

CANNING & GEAGAN and  
E. P. KELLY,  
Attorneys for Plaintiffs. [178]

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EXHIBIT VI.

*In the District Court of the Second Judicial District,  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, and CHARLES  
H. MOYER, President of the Western Federa-  
tion of Miners, a Voluntary Organization and  
Association of Persons, with Its Headquarters  
in the County of Denver, and State of Col-  
orado; GUY E. MILLER and ED O'BRYNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH, and PATRICK  
QUIGLEY,

Defendants.

## REPLY.

Comes now the plaintiffs above named and for reply to the answer of the defendants, herein, admit, deny, and allege as follows, to wit:

Deny, generally and specifically each and every of the allegations in said answer contained.

WHEREFORE, having fully replied the plaintiffs pray judgment in accordance with the prayer of their complaint herein.

CANNING & GEAGAN and

E. P. KELLY,

Attorneys for Plaintiffs.

State of Montana,

County of Silver Bow,—ss.

Guy E. Miller, being first duly sworn upon oath deposes and says: That he is one of the plaintiffs named in the above-entitled action and makes this verification in behalf of himself and the other plaintiffs and says that he has read the foregoing reply, knows the contents thereof, and that the same is true of his own knowledge, except as to matters and things therein stated upon [179] information and belief, and as to these matters and things he believes them to be true.

GUY E. MILLER,

Subscribed and sworn to before me this 16th day of March, A. D. 1915.

[Notarial Seal]

P. E. GEAGAN,

Notary Public in and for the State of Montana; Residing at Butte, Montana.

My commission expires Jan. 13, 1918.

[Endorsed]: Filed May 13, 1915.



## EXHIBIT VII.

## POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That I, Charles H. Moyer, President of the Western Federation of Miners, a voluntary organization of the City and County of Denver, State of Colorado, have made, constituted, and appointed, and by these presents do make, constitute and appoint, Guy E. Miller, of the City of Butte, State of Montana, my true and lawful attorney, for me and in my name, place and stead, to take complete charge of the affairs, including all books and papers of The Butte Miners' Union, a corporation, existing under and by authority of the laws of the State of Montana, whose headquarters are at 217 North Main Street, Butte, Montana, and to receive and file any and all charges that may be made against the local officers of said Union and to transmit the same or a copy thereof to me, and to collect and receive any and all moneys which shall be due, owing and payable and belonging to the said Butte Miners' Union; and in my name represent before any Judge or Minister of the law whatsoever, and in any court or courts of judicature, and on my behalf prosecute for any debt, fraud and any manner of claims that the said Butte Miners' Union may have against any person or persons, and to answer, defend all actions [180] or causes whatsoever relating to the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming, and

holding valid all that my said attorney shall lawfully do or cause to be done by virtue of these present.

Witness my hand and seal at Denver, Colorado, this 30th day of November, A. D. 1914.

CHAS. H. MOYER. (Seal)

President W. F. M.

State of Colorado,

City and County of Denver,—ss.

I, \_\_\_\_\_, a notary public in and for the City, County, and State aforesaid, do hereby certify that \_\_\_\_\_, who is personally known to me to be the person whose name is subscribed to the within Power of Attorney appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of November, A. D. 1914.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_. [181]

EXHIBIT VIII.

*In the District Court of the Second Judicial District,  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, and CHARLES  
H. MOYER, President of the Western Federa-  
tion of Miners, a Voluntary Organization and  
Association of Persons, with Its Headquarters  
in the City and County of Denver, State  
of Colorado; GUY E. MILLER and ED  
O'BRYNE,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH, and PATRICK  
QUIGLEY,

Defendants.

ORDER TO SHOW CAUSE AND RESTRAIN-  
ING ORDER.

On the amended complaint of the plaintiff herein  
duly verified, the material allegations made posi-  
tively, a copy of which is hereto attached,

IT IS ORDERED, that the defendant above-  
named, and each of them, show cause before the  
above-entitled court in department 2 thereof, at the  
courthouse, in the City of Butte, County of Silver

Bow, State of Montana, on the 20th day of February, 1915, at 9:30 o'clock A. M. of said day, why an injunction should not be granted restraining them, and each of them, and all of their agents, servants, employees, attorneys, and anyone acting for or in their behalf or under their direction, from in any way interfering with the plaintiffs herein and the plaintiff, Charles H. Moyer, President of the Western Federation of Miners, in the possession and control of the property of The Butte Miners' Union, a corporation, pending the determination of the charges filed against the officers of said corporation, a copy of which said charges is set forth in the complaint herein, and the holding and conducting of an election by the members of said corporation for new officers, if the charges set forth in the complaint herein [182] and filed by the members of said corporation against the defendants herein, as officers of said corporation are found and proven to be true, and from interfering with the putting of the business of The Butte Miners' Union, a corporation, on a business basis.

Dated this 8th day of Feb., A. D. 1915.

JOHN B. McCLERNAN,

Judge.

Attest: [Court Seal] John J. Foley, Clerk of the District Court of the Second Judicial District of the State of Montana. By J. J. Vines, Deputy.  
[183]

EXHIBIT IX.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, et al.,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

Upon the facts adduced on the hearing of the order  
to show cause herein, the Court finds for the plain-  
tiffs and makes the following:

CONCLUSIONS OF LAW.

I. That the application to the Western Federa-  
tion of Miners for a charter by Butte Miners' Union,  
No. 1, a corporation and the granting of the same  
by the Western Federation of Miners and the ac-  
ceptance thereof by the said Union, a corporation,  
established contractual relations between the two  
bodies, legally binding on both.

II. That the amendment to the Constitution of  
the Western Federation of Miners set forth in the  
amended complaint, and known throughout the hear-  
ing as Amendment No. 2, was regularly adopted by



the Western Federation of Miners and locals constituting the same, and thereupon became and was a part of the constitution of the Western Federation of Miners and binding upon the said union, corporation, by reason of its application for and acceptance of the Charter hereinbefore mentioned, and became and was part of the contract existing between the Western Federation of Miners and the Union corporation. That whether or not it was the part of wisdom to adopt the said amendment is not a matter for consideration by this Court. [184]

III. That in accordance with the terms and provisions of said constitution, as amended, charges were regularly preferred against all of the above-named defendants, and the said defendants, so charged, with the exception of James Walsh and James Ryan, Trustees of said Union, corporation, declined and refused, after demand, to comply with the terms, conditions and provisions of the Constitution of the Western Federation of Miners, as amended.

IV. That Guy E. Miller was the duly appointed and lawful attorney-in-fact of Charles H. Moyer, president of the Western Federation of Miners, at the time of the presentation of said charges and the making of said demand, and presented said charges and made said demand pursuant to the authority in him vested by written power of attorney from said Moyer to him. That the power so delegated by said Moyer, as president of the Western Federation of Miners, was purely administrative and ministerial and could be and was legally delegated.

V. That a temporary injunction should issue herein.

IT IS THEREFORE ORDERED:

I. That a temporary restraining order issue herein, enjoining and restraining the defendants (excepting James Walsh and James Ryan), their agents, servants, employees and attorneys, or anyone acting for or in their behalf, or under their direction, from in anyway interfering with the plaintiffs Western Federaton of Miners, or Guy E. Miller, the attorney-in-fact of Charles H. Moyer, President of the Western Federation of Miners, in the possession and control of the property of the Butte Miners' Union, No. 1, a corporation, for the purposes mentioned in the said amendment to the Constitution of the Western Federation of Miners.

II. Enjoining and restraining said plaintiffs, and each and all of them, their agents, servants, employees and attorneys, or anyone acting for or in their behalf, from disposing of the whole or any part of the funds of the Butte Miners' Union, No. 1, a corporation, [185] now on deposit in any bank in Butte; from removing the same from said bank or banks, and from in any manner interferring with the same without further order of this court; and from disposing of or removing from the County of Silver Bow, Montana, any of the books, records, property or effects of said Butte Miners' Union, No. 1, a corporation.

Done in open court this 12th day of June, 1915.

JOHN B. McCLERNAN,

Judge.

## EXHIBIT X.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization and Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, et al.,

Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

## TEMPORARY RESTRAINING ORDER.

This matter coming on regularly for hearing on the — day of May, 1915, on the order to show cause heretofore issued herein, plaintiffs being represented by their attorneys, Canning and Geagan & Kelly, and the defendants being present in person and represented by their counsel, Peter Breen and A. C. McDaniels, Esq., testimony was thereupon introduced on behalf of plaintiffs, and being concluded, testimony was thereupon introduced on behalf of defendants, and being concluded, and both sides having announced that the testimony on the said hearing was closed, counsel for the respective parties thereupon argued the said cause orally, and thereafter, the Court took the said order to show cause under

advisement, and the Court being fully advised in the premises: [186]

NOW, THEREFORE, it is hereby ordered, and this does order that the defendants Martin Scahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan and Patrick Quigley, be, and each and all of them their agents, servants or employees, or anyone acting for or on their behalf, or under their direction, are hereby enjoined and restrained from in any way or manner interfering with the plaintiffs, Western Federation of Miners, or Guy E. Miller the attorney-in-face of Charles H. Moyer, the President of the Western Federation of Miners in the possession and control of the property of the Butte Miners' Union, No. 1, a corporation for the purposes mentioned in the amendment to the constitution of the Western Federation of Miners as alleged in the amended complaint of plaintiffs and known throughout the hearing of the order to show cause as "AMENDMENT NO. 2."

AND IT IS FURTHER ORDERED, and this does order that the said plaintiffs, and each and all of them, their agents, servants, employees and attorneys, or anyone acting for or on their behalf are hereby enjoined and restrained from disposing of the whole, or any part of the funds of the Butte Miners' Union No. 1, a corporation, now on deposit in any bank in Butte, or from removing the same from the said bank or banks, or from in any manner interfering with the same without the further order of this court, and are hereby enjoined and restrained from disposing of, or removing from the County of

Silver Bow, Montana, any of the books, records, property or effects of the said Butte Miners' Union No. 1, a corporation.

Done in open court this 14th day of June, 1915.

JOHN B. McCLERNAN,

Judge.

### EXHIBIT XI.

RESOLUTION FOR WITHDRAWAL OF THE BUTTE MINERS' UNION, A CORPORATION, FROM THE WESTERN FEDERATION OF MINERS, A VOLUNTARY ORGANIZATION AND ASSOCIATION OF PERSONS, WITH ITS HEADQUARTERS IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND RECISION OF CONTRACT BETWEEN THE SAID BUTTE MINERS' UNION, A CORPORATION, AND THE SAID WESTERN FEDERATION [187] OF MINERS.

WHEREAS, The Butte Workingmen's Union, being an association of Miners and others, was organized on the 13th day of June, 1878, and;

WHEREAS, the said name was thereafter, by resolution of the said Butte Workingmen's Union, changed to that of the "Miners' Union," being an association of miners and others, and;

WHEREAS, the said "Miners' Union," was thereafter, upon the 18th day of April, A/D. 1881, duly incorporated under the laws of the State of Montana, and;

WHEREAS, before the date on which the said corporation would legally expire, proceedings neces-



sary to continue its corporation, were duly filed, continuing the said corporation, for the term provided by law, and;

WHEREAS, the name "The Miners' Union," was on the 24th day of August, 1914, by suitable proceedings amended to "The Butte Miners' Union," and;

WHEREAS, the said "The Butte Miners' Union, a corporation" is at present and for a period of more than thirty-one (31) years has been a corporation, duly organized and existing under and by virtue of the laws of the State of Montana, and;

WHEREAS, the Western Federation of Miners, an unincorporated voluntary organization and association of persons with its headquarters in the City and County of Denver, State of Colorado, was organized May, 1893, and;

WHEREAS, The Butte Miners' Union, a corporation, did shortly thereafter, become a local of the said Western Federation of Miners, an unincorporated voluntary organization and association, of persons, and received a charter therefrom, on May 15, 1893, and;

WHEREAS, the said charter was by a mob, destroyed, on June 13, 1914, and;

WHEREAS, The Butte Miners' Union, a corporation, did on the [188] 22d day of September, 1914, apply to the said Western Federation of Miners for a reissuance of its charter, and;

WHEREAS, the said application was, on the 3d day of October, 1914, granted, and a charter of said date duly issued and;

WHEREAS, on the 15th day of May, 1893, The

Butte Miners' Union, a corporation, had approximately five thousand (5000) members and property in excess of one hundred thousand (\$100,000) dollars, consisting of money on hand, real estate and mortgages and enjoyed the goodwill and received the co-operation of all employees and organizations of employees, and of all other elements of the community, and;

WHEREAS, since the date of May 15, 1893, and up to the 1st of December, 1914, The Butte Miners' Union, a corporation, has paid into the treasury of the said Western Federation of Miners, as per capita tax, assessments levied, and donations appealed for, a sum in excess of One Million (\$1,000,000) Dollars, and;

WHEREAS, the said The Butte Miners' Union, a corporation, between the 1st day of July, 1913, and the 1st day of July, 1914, paid as assessments to the Western Federation of Miners One Hundred Thirty-eight Thousand Eight Hundred and Twenty-five and 60/100 (\$138,825.60) Dollars, donations, Twenty-one Hundred (\$2,100) Dollars, per capita tax, Seventeen Thousand Five Hundred (\$17,500) Dollars, supplies, Five Hundred (\$500) Dollars, amounting to the total sum of One Hundred Fifty-eight Thousand, Nine Hundred and Twenty-five and 60/100 (\$158,925.60) Dollars, and;

WHEREAS, between January 5, 1914, and June 15, of the said year in dues, assessments and donations, the said The Butte Miners' Union paid to the said Western Federation of Miners, the following sums of money:

January	5.....	\$ 2,000.00
"	19.....	10,000.00
"	22.....	10,000.00
February	2.....	5,000.00
"	5.....	1,250.00

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February	16.....	10,000.00
"	23.....	1,250.00
"	23.....	100.00
March	6.....	8,000.00
"	23.....	10,000.00
"	23.....	1,250.00
April	16.....	6,000.00
"	16.....	450.00
"	22.....	8,000.00
May	20.....	1,000.00
June	4.....	1,250.00
"	15.....	3,000.00

making a total of Seventy-eight Thousand Five Hundred and Fifty (\$78,550) Dollars, and

WHEREAS, upon January 1, 1914, the Western Federation of Miners claimed that The Butte Miners' Union, a corporation, owed it a balance of Forty-four Thousand Two Hundred and Sixty-eight (\$44,268.15) Dollars, and from said date January 1, 1914, to June 2d of said year the following additional amounts:

January	1.....	\$44,268.15
"	16.....	1,250.00
"	21.....	55.00
February	1.....	15,428.00
"	5.....	1,250.00
"	10.....	166.50

March	1.....	20,317.50
“	2.....	1,250.00
“	2.....	7.50
“	18.....	1,250.00
April	1.....	20,639.50
“	10.....	1,250.00
May	1.....	19,656.00
“	7.....	1,250.00
June	1.....	7,576.00
“	2.....	1,250.00

making a total amount owing from January 1, 1914, to June 2, 1914, One Hundred Thirty-six Thousand Eight Hundred and Sixty-four and 65/100 (\$136,-864.65) Dollars, and

WHEREAS, after receiving the said sum of Seventy-eight Thousand Five Hundred and Fifty (\$78,-550) Dollars, in a period of six (6) months, the said Western Federation of Miners claims that at said time, to wit, June 15, 1914, there was due and owing from The Butte Miners' Union, a corporation, to the said Western Federation of Miners a balance of Sixty Thousand Four Hundred and Fifteen and 65/100 (\$60,415.65) Dollars, and [190]

WHEREAS, The Butte Miners' Union, a corporation, during all of the time in which the said Western Federation of Miners, demanded and received the said sums of said money above set forth from The Butte Miners' Union, a corporation, the said corporation was compelled to pay the said sums of money to the said Western Federation of Miners, through its officers and were not permitted to at any time send the money themselves to the places wherein

the said officers of the said Western Federation of Miners claimed it was wanted for, and was to be sent, and

WHEREAS, very many complaints have reached the said The Butte Miners' Union, a corporation, from the localities wherein the said money was supposed to be sent, that the same did not reach their destination, but were spent by some of the general officers and some of the members of the general executive board, who were intrusted with the distribution of the same, in all manner of debauchery, and for their own benefit, and that only a small portion of it reached the deserving families, and

WHEREAS, the reports of the Secretary-Treasurer of the Western Federation of Miners, an unincorporated association of persons as aforesaid, for the fiscal year ending June 30, 1914, as an example, shows that on the Michigan strike, on August 22, 1913, J. C. Lowney of Butte, Montana, member of the executive board, received the sum of Twenty-five Thousand (\$25,000) Dollars; on September 12, 1913, he received an additional Twenty-five Thousand (\$25,000) Dollars; on November 25, 1913, Ten Thousand (\$10,000) Dollars; on December 1, 1913, Ten Thousand (\$10,000) Dollars, making a total from August 22, 1913, to December 8, 1913, of Eighty Thousand (\$80,000) Dollars. From September 26 to October 16, 1913, inclusive, a period of twenty (20) days, Guy E. Miller, of the executive board, presumably for the same purpose, also received, September 26, Twenty-five Thousand (\$25,000) Dollars; October 2, Twenty-five Thousand (\$25,000) Dollars; October 8,



Twenty-five Thousand (\$25,000) Dollars; October 15, [191] Twenty-five Thousand (\$25,000) Dollars, making a total of One Hundred Thousand (\$100,000) Dollars in twenty (20) days. Then we find Vice-President C. E. Mahoney also handling the money for strike relief, as follows: October 24, Twenty-five Thousand (\$25,000) Dollars; October 31, Twenty Thousand (\$20,000) Dollars; November 6, Ten Thousand (\$10,000) Dollars; November 12, Ten Thousand (\$10,000) Dollars; November 17, Ten Thousand (\$10,000) Dollars, making a total of Seventy-five Thousand (\$75,000) Dollars received by Mahoney from October 24, 1913, to November 17, 1913, inclusive. In other words, Seventy-five Thousand (\$75,000) Dollars in twenty-four (24) days; and

WHEREAS, many reports have reached The Butte Miners' Union, a corporation, that strikes were being caused and called by the general officers and the general executive board for the sole purpose of collecting a large relief fund for the benefit of the general officers and those acting in concert with them, and

WHEREAS, the above amounts were given to the various parties of during practically the same period of time, and that a very short time, firmly convinces The Butte Miners' Union, a corporation, of the truth of the said accusations, more particularly so when we find in the same report the expenditures of the Western Federation of Miners for the said term, namely, July 1, 1913, to June 30, 1914, were the sum of Nine Hundred and Nineteen Thousand Five Hundred and Twenty-two and 03/100 (\$918,522.03) Dollars, almost One Million (\$1,000,000) Dollars in one (1) year, itemized as follows:

President.....	\$ 4,369.40
Vice-President.....	4,083.25
Secretary-Treasurer.....	1,857.45
Executive Board.....	12,151.89
Organizers.....	56,714.11
Miners' Magazine.....	7,062.22
Attorneys.....	10,248.56
Rent, Light & Janitor Service..	1,500.00
Office Expenses and Office As-	
sistance.....	4,399.50
Supplies.....	7,627.21
Postage.....	1,020.57
Express Charges.....	333.00
Telephone.....	93.35
Telegrams.....	895.08

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Strike Relief—

Michigan Strike.....	728,932.79
Bingham M. U. No. 67.....	1,195.00
Blue Rapids M. & S. No. 218...	1,760.00
Craigs' M. U. No. 245.....	350.00
Ymir M. U. No. 85.....	972.00
Childrens' Christmas Fund.....	433.35
Miscellaneous Michigan Relief.	32,801.42
Miscellaneous Strike Relief....	480.00
Miscellaneous Relief.....	755.00
Miscellaneous.....	36,417.95
Drafts, Collections and Protection	
Checks.....	3,068.93

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Total.....\$191,522.03

and WHEREAS, the said Western Federation of Miners has since the reissuance of the charter on the 3d day of October, 1914, to The Butte Miners' Union, a corporation, continually attempted to get large sums of money from The Butte Miners' Union, a corporation, and in furtherance of said demand has first cajoled, and then failing in that, tried to accomplish the same ends by threats of confiscating the property of The Butte Miners' Union, a corporation, and for said purpose have brought actions in court, harassing and annoying The Butte Miners Union, a corporation, and has caused it great loss of membership, loss of money, has injured its standing, and has attempted in all manners to destroy its power and influence, and has tried to cause dissatisfaction with the membership, has prevented it from paying its debts and obligations, and through its executive officers, has repeatedly stated, that if The Butte Miners' Union, a corporation, would only lie down that everything would be alright, and that if it did not, its chosen officers would be discredited, disgraced and removed from office, and its property confiscated, and

WHEREAS, through all of the years in which the said The Butte Miners' Union, a corporation, has worked under a charter from the said plaintiff, Western Federation of Miners, that it has not received one cent of benefit in any shape, manner or form, from the said Western Federation of Miners, and [193]

WHEREAS, it seems impossible for the Western Federation of Miners, a nonresident unincorporated

association of persons, with its headquarters in Denver, Colorado, to escape from the tentacles of the present executive officers, and

WHEREAS, the said Western Federation of Miners has, since October last, frequently declared The Butte Miners' Union, a corporation, an outlaw organization, and has suspended it from any privileges, however slight, that they were unable to bestow upon it, and

WHEREAS, the said Western Federation of Miners is no longer a *bona fide* labor organization, and is without reputation or standing in any community, its income for the last quarter report being less than Six Thousand (\$6,000) Dollars from all sources, including per capita tax, donations to defense funds and contributions generally, and

WHEREAS, The Butte Miners' Union, a corporation, has but recently had its eyes opened to actual conditions, and has realized that the contract known as the charter existing between it and the said Western Federation of Miners, has been breached by the said Western Federation of Miners, and that the same is and has not been an equitable contract in which there was anything coming from the said Western Federation of Miners to The Butte Miners' Union, a corporation, and

WHEREAS, the said Western Federation of Miners refused to assist The Butte Miners' Union, a corporation, in its struggle for existence, and through no fault of The Butte Miners' Union, a corporation, has totally failed to, in return from the large sums of money paid, furnish any consideration

or assistance, but when attacked by foes within and without, because of its affiliation with the said Western Federation of Miners, and

WHEREAS, The Butte Miners' Union, a corporation, as aforesaid, has nothing in common with the said Western Federation nor has it any property belonging to it, the said Western Federation of Miners, [194] or has received nothing from it, that is emblematic of it, save the charter issued as aforesaid, and the seal of Butte Miners' Union, is willing to surrender, and

WHEREAS, during all of the years of its affiliation with the said Western Federation of Miners, they never was any consideration that passed from the Western Federation of Miners to The Butte Miners' Union, a corporation, in return for the vast sums of money received by it from the said The Butte Miners' Union, a corporation, and the prestage it received by reason of The Butte Miners' Union, a corporation, being known as a local of the said Western Federation of Miners, and

WHEREAS, The Butte Miners' Union, a corporation, has since October last, been doing business as a Montana Corporation, and under the seal of said corporation, and has not done business and Butte Miners' Union, No. 1, W. F. of M. since said time, and

WHEREAS, Butte Miners' Union, No. 1, intends to hereafter conduct its business as The Butte Miners' Union; therefore,

BE IT RESOLVED, that The Butte Miners' Union, a corporation, hereby rescinds and repudiates.



any contract that heretofore existed and may, at present exist between the said The Butte Miners' Union, a corporation, and the Western Federation of Miners, by reason of said charter as aforesaid, or in any other way, and hereby declares the same null and void, and

BE IT FURTHER RESOLVED, that The Butte Miners' Union, a corporation, hereby withdraws from the said Western Federation of Miners, and refuses longer to affiliate with it, and

BE IT FURTHER RESOLVED, that The Butte Miners' Union, a corporation, return to the headquarters of the Western Federation of Miners, a nonresident, unincorporated, voluntary association of persons with its headquarters at Denver, Colorado, the charter received from it and the seal, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the papers for publication.  
[195]

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## EXHIBIT XII.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, and CHARLES H. MOYER, President of the WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons With Its Headquarters in the City

and County of Denver and State of Colorado,  
GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,

Defendants.

ORDER.

On reading and filing the affidavit of Pat Lee hereto attached, the prayer of said affidavit is granted, and

It is here ordered that the sum of Eight Hundred (\$800) Dollars, or as much thereof as may be necessary, be paid to Peter Breen, Esq., as he may require it, by the Daly Bank and Trust Company of Butte, for the purpose of appealing the above-entitled action to the Supreme Court of this State, appealing from the order of this court granting an injunction *pendente lite*, and this order or a copy thereof shall be sufficient authority for said bank to pay said amount.

Dated June 26th, 1915.

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Judge. [196]

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

No. A-6590.

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization and Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, State of Colorado, and  
CHARLES H. MOYER, President of the  
WESTERN FEDERATION OF MINERS,  
a Voluntary Organization and Association of  
Persons With Its Headquarters in the City  
and County of Denver and State of Colorado,  
GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,  
Defendants.

State of Montana,  
County of Silver Bow,—ss.

Pat Lee, being first duly sworn on oath says: That  
he is one of the defendants in the above-entitled ac-  
tion. That on the 12th day of June, 1915, the said  
Court made and entered its findings of fact and con-  
clusions of law in the above-entitled action. That  
said Court found against these defendants, and  
thereafter entered an order restraining these de-  
fendants from doing certain acts specified in said

order. That the affiant is an officer, to wit, secretary-treasurer of The Butte Miners' Union, a corporation. That by said order aforementioned, all of the property and money of the said The Butte Miners' Union, a corporation, was held subject to the disposition of the Court. That said Union has no other money available to pay the expenses of an appeal from said order. That affiant has been advised by his attorney that the defendants in said action have a meritorious right of appeal to the Supreme Court of this State from said order.

WHEREFORE, affiant prays that the Court make an order allowing the defendants to use as far as may be necessary, the sum of Eight Hundred (\$800) Dollars, for the purpose of perfecting an appeal and appealing the case to the Supreme Court of this State. [197] And affiant hereunto annexed and makes a part of this affidavit, the affidavit of Peter Breen.

PAT LEE.

Subscribed and sworn to before me this 26th day of June, 1915.

[Notarial Seal]                      A. C. McDANIEL,  
Notary Public for the State of Montana, Residing  
at Butte, Montana.

My commission expires Dec. 10, 1915.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization and Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, State of Colorado, and  
CHARLES H. MOYER, President of the  
WESTERN FEDERATION OF MINERS,  
a Voluntary Organization and Association of  
Persons With Its Headquarters in the City  
and County of Denver and State of Colorado,  
GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,  
Defendants.

AFFIDAVIT.

State of Montana,  
County of Silver Bow,—ss.

Peter Breen, being first duly sworn on oath says:  
That he is one of the attorneys for the defendants in  
the above-entitled action, and was present during all  
of the trial of the order to show cause herein. That  
he has conferred with Frank L. Riley, the official  
stenographer of Department Two of said court, and  
the person who took all of the testimony at said hear-  
ing, and said Frank L. Riley estimates that a tran-



script of the testimony taken at the hearing of said order to show cause would cost between Three Hundred (\$300) and Four Hundred (\$400) Dollars. That affiant knows from his own experience that the printing of said transcript, the printing of [198] the brief on appeal and filing fees in the Supreme Court, will cost about Four Hundred (\$400) Dollars. That he makes this affidavit for the purpose of securing an order of the Court allowing the expenditure of Eight Hundred (\$800) Dollars, for the purpose of appealing said matter to the Supreme Court.

PETER BREEN.

Subscribed and sworn to before me this 26th day of June, 1915.

[Notarial Seal]                      A. C. McDANIEL,  
Notary Public for the State of Montana, Residing at  
Butte, Montana.

My commission expires December 10th, 1915.

### EXHIBIT XIII.

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization and Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, State of Colorado, and  
CHARLES H. MOYER, President of the  
WESTERN FEDERATION OF MINERS,  
a Voluntary Organization and Association of  
Persons With Its Headquarters in the City

and County of Denver and State of Colorado,  
GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PAT-  
RICK O'NEILL, MIKE A. SULLIVAN,  
JAMES RYAN, JAMES WALSH and  
PATRICK QUIGLEY,

Defendants.

NOTICE OF APPEAL.

TO THE ABOVE-NAMED PLAINTIFFS AND  
TO THEIR ATTORNEYS, MESSRS. CAN-  
NING & GEAGAN AND E. P. KELLY:

You, and each of you, will take due notice that the  
said defendants, Martin Scahill, Patrick Lee, Pat-  
rick O'Neill, Mike A. Sullivan and Patrick Quigley,  
hereby appeal to the Supreme Court of the State of  
Montana, from the order therein entered in said  
District Court on the 14th day of June, 1915, in favor  
of the said plaintiffs and against these defendants,  
and from the whole thereof, granting a temporary  
injunction.

Dated this 26th day of June, 1915. [199]

PETER BREEN,  
A. C. McDANIEL,  
Attorneys for Defendants.

Service of the foregoing notice acknowledged and  
copy received this 26th day of June, 1915.

CANNING & GEAGAN and  
E. P. KELLY,  
Attorneys for Plaintiffs.

State of Montana,  
County of Silver Bow,—ss.

I, John J. Foley, clerk of the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, do hereby certify that the foregoing is a full, true and correct copy of Notice of Appeal filed on the 26th day of June, A. D. 1915.

In testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court this 26 day of June, A. D. 1915.

[Court Seal]

JOHN J. FOLEY,  
Clerk.

By D. W. Lewis,  
Deputy Clerk.

*In the Supreme Court of the State of Montana.*

State of Montana,  
Louis and Clark County,—ss.

I, J. T. Carroll, clerk of the Supreme Court of the State of Montana, do hereby certify that the foregoing Affidavit for Writ in the cause of the State of Montana, ex rel., Butte Miners' Union, et al., Relators and Plaintiffs, vs. District Court of the Second Judicial District; Western Federation of Miners' et al., Respondents and Defendants, [200] is a true, full and compared copy of the Affidavit for Writ, in the case of the State of Montana, ex rel., No. 3697, Butte Miners' Union, et al., Relators and Plaintiffs, vs. District Court of the Second Judicial District; Western Federation of Miners' et al., Respondents and Defendants, as the same appears of record in my office.

Witness my hand and the Seal of the Supreme Court of the State of Montana, this 7 day of July, 1915.

J. T. CARROLL,  
Clerk. [201]

**Exhibit "M" to Answer—Order to Show Cause,  
State ex rel., Butte Miners' Union vs. District  
Court, etc.**

*In the Supreme Court of the State of Montana.*

THE STATE OF MONTANA on the Relation of  
THE BUTTE MINERS' UNION, a Cor-  
poration, MARTIN SCAHILL, PATRICK  
LEE, PATRICK O'NEILL, MIKE A.  
SULLIVAN and PATRICK QUIGLEY,

Relators and Plaintiffs,

vs.

THE DISTRICT COURT OF THE SECOND  
JUDICIAL DISTRICT OF THE STATE  
OF MONTANA, in and for the County of  
Silver Bow, and the HON. JOHN B. Mc-  
CLERNAN, One of the Judges Thereof;  
WESTERN FEDERATION OF MINERS,  
a Voluntary Organization, Association of  
Persons With its Headquarters in the City  
and County of Denver, State of Colorado;  
CHARLES H. MOYER, President of the  
Western Federation of Miners, a Voluntary  
Organization and Association of Persons  
With Its Headquarters in the City and  
County of Denver, State of Colorado; GUY  
E. MILLER and ED O'BYRNE,

Respondents and Defendants.

## ORDER TO SHOW CAUSE.

The State of Montana to the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, and the Hon. John B. McClernan, One of the Judges Thereof; Western Federation of Miners, a Voluntary Organization, Association of Persons With its Headquarters in the City and County of Denver, State of Colorado; Charles H. Moyer, President of the Western Federation of Miners, a Voluntary Organization and Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado; Guy E. Miller and Ed O'Byrne, GREETINGS:

WHEREAS, it manifestly appears to us, by the affidavit of Martin Scahill, on behalf of all the relators herein, the parties beneficially interested, that in a certain action pending before the said District Court and Judge, wherein the said Western Federation of Miners et al., are the plaintiffs, and the said Martin Scahill et al., are the defendants, you the said Court and Judge, exercising judicial functions, have exceeded your jurisdiction and are without jurisdiction and are proceeding under mistake of law, and that you have caused, and are causing great injury to said relators by your orders, made in said action, that the injury [202] is such that it cannot be rectified on appeal to this Court, that such orders, together with the actions of the other respondents in this proceedings, interferes with the constitutional rights of said relators, and said orders were unwarranted in law and in fact, and were an



oppressive abuse of judicial discretion, and are in excess of and without jurisdiction and were made under mistake of law;

NOW, THEREFORE, You and each of you are hereby commanded to be and appear before our Supreme Court, at the courtroom thereof, in the City of Helena, Montana, on the 3d day of July, 1915, at the hour of ten o'clock, A. M. of said day, then and there to show cause, if any there be, why a writ of supervisory control should not be issued by this Court commanding you, the said District Court and the Judges thereof, to set aside, annul and for naught hold the said orders of June 12th, and June 14th, 1915, exhibits IX and X of said affidavit, and to dismiss the said proceedings, or such other order or writ as may be proper in the premises, and you, the said Western Federation of Miners, the said Charles H. Moyer, the said Guy E. Miller and the said Ed. O'Byrne, why you should not be permanently restrained from in any and all manner, interfering with the said relators in the business, affairs and property of the said The Butte Miners' Union; It is further ordered that hearing be had on said day.

And in the meantime, you and each of you, are hereby commanded to desist from all proceedings in said matter, and all proceedings arising out of, or connected with, or pertaining to, or relating to, said action, or said orders, until further order of this court.

And you and each of you, are hereby commanded, upon the service of this order upon you, to forthwith

restore to the said The Butte Miners' Union, a Corporation, all property and effects which you, or either of you, have under your possession and control.

And it is here ordered, that a copy of this order and a copy of said affidavit be served upon the said Court and Judge, that a [203] copy of this order be served upon the said Ed. O'Byrne, that a copy of this order be served upon the said Guy E. Miller for and on behalf of the said Western Federation of Miners, and that a copy of this order be served upon the said Guy E. Miller for and on behalf of the said Charles H. Moyer.

And, it is further ordered, that the sheriff of Silver Bow County, Montana, make the service herein ordered, and make the return of this order to this Court.

WITNESS, the Honorable Theodore Brantly, Chief Justice of the Supreme Court, and the seal of said court hereunto affixed, and the hand of the clerk of said court, this 28th day of June, 1915.

[Court Seal]

J. T. CARROLL,

Clerk.

In the Supreme Court of the State of Montana.

State of Montana,

County of Lewis and Clark,—ss.

I, J. T. Carroll, Clerk of the Supreme Court of the State of Montana do hereby certify that the above and foregoing, consisting of four pages, is a full, true and compared copy of the original order to show cause issued in the case of State of Montana, ex rel. Butte Miners' Union vs. District Court, on June 28, 1915, as the same appears of record in my office.

Witness my hand and the seal of said court this  
28th day of June, 1915.

J. T. CARROLL,  
Clerk. [204]

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**Exhibit "N" to Answer—Motion to Quash Order to  
Show Cause of and Dismiss Petition, State ex  
rel., Butte Miners' Union vs. District Court, etc.**

*In the Supreme Court of the State of Montana.*

THE STATE OF MONTANA on the Relation of  
THE BUTTE MINERS' UNION, a Cor-  
poration, MARTIN SCAHILL, PATRICK  
LEE, PATRICK O'NEILL, MIKE A.  
SULLIVAN and PATRICK QUIGLEY,  
Relators and Plaintiffs,  
vs.

THE DISTRICT COURT OF THE SECOND  
JUDICIAL DISTRICT OF THE STATE  
OF MONTANA, in and for the County of  
Silver Bow, and the HON. JOHN B. Mc-  
CLERNAN, One of the Judges Thereof;  
WESTERN FEDERATION OF MINERS,  
a Voluntary Organization, Association of  
Persons With its Headquarters in the City  
and County of Denver, State of Colorado;  
CHARLES H. MOYER, President of the  
Western Federation of Miners, a Voluntary  
Organization and Association of Persons  
With Its Headquarters in the City and  
County of Denver, State of Colorado; GUY  
E. MILLER and ED. O'BYRNE.

Respondents and Defendants.

## MOTION TO QUASH ORDER TO SHOW CAUSE AND DISMISS PETITION.

Come now the respondents and defendants above-named and move this Honorable Court to quash the Order to show cause heretofore issued out of this Honorable Court in the above-entitled cause on the 28th day of June, 1915, and directed to the above-named defendants and respondents, and to dismiss the Petition of the relators herein for a writ of Supervisory Control herein, upon the grounds and for the reason—

First. That the Petition herein for said Writ is insufficient in law.

Second. That the Petition herein does not state facts sufficient upon which to base the Order to Show Cause herein, or upon which to base a Writ of Supervisory Control. [205]

Third. Upon the ground and for the reason that the relators and plaintiffs herein, have a plain, speedy and adequate remedy in the premises by an appeal to this Honorable Court, from the order of the District Court sought to be reviewed and set aside by Supervisory Control.

Fourth. That the said Petition fails to show that the District Court, or the Honorable John B. McClerman, Judge thereof, was acting without, or in excess of his jurisdiction; or that the said Judge acted in, or is acting in an oppressive, unfair, or tyrannical manner in the premises.

Fifth. Upon the grounds and for the reason that it affirmatively appears from the said Petition, that the District Court of the Second Judicial District

of the State of Montana, had, and has jurisdiction to make the order complained of; and that the order complained of, works no injury whatsoever that cannot be remedied by Appeal, if the same order be wrong or erroneous upon the relators herein.

WHEREFORE your respondents and defendants respectively pray this motion be granted, the Order to Show Cause hereby quashed, and the Petition of the relators herein dismissed.

CANNING & GEAGAN and  
E. P. KELLY,

Attorneys for Respondents and Defendants.

Service of the foregoing Motion to Quash Order to Show Cause and Dismiss Order, acknowledged and copy received this 3d day of July, A. D. 1915.

PETER BREEN and  
A. C. McDANIEL,  
Attorneys for Relators and Plaintiffs. [206]

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**Exhibit "N-1" to Answer—Answer, State ex rel.,  
Butte Miners' Union vs. District Court, etc.**

*In the Supreme Court of the State of Montana.*

THE STATE OF MONTANA on the Relation of  
THE BUTTE MINERS' UNION, a Corporation, MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN and PATRICK QUIGLEY,  
Relators and Plaintiffs,  
vs.

THE DISTRICT COURT OF THE SECOND  
JUDICIAL DISTRICT OF THE STATE



OF MONTANA, in and for the County of Silver Bow, and the HON. JOHN B. McCLENNAN, One of the Judges Thereof; WESTERN FEDERATION OF MINERS, a Voluntary Organization, Association of Persons With its Headquarters in the City and County of Denver, State of Colorado; CHARLES H. MOYER, President of the Western Federation of Miners, a Voluntary Organization and Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado; GUY E. MILLER and ED. O'BYRNE.

Respondents and Defendants.

### ANSWER.

Come now the respondents and defendants above-named and make and file this their verified answer to the affidavit and petition for writ in the above-entitled action, filed herein on the 28th day of June, 1915, and admit, deny and allege as follows, to wit:

I. Admit that The Butte Miners' Union, is now, and was at all times mentioned in the affidavit for writ, on file herein, a corporation, organized and existing under and by virtue of the laws of the State of Montana, and that all of the matters and things set forth in the first paragraph of said affidavit for writ are true.

II. Admit all of the allegations in the second paragraph of said affidavit for writ; that is, the allegations setting forth of what the membership of the corporation consists.

III. Admits that Martin Scahill is the president

of said corporation, but deny that he was duly and regularly elected [207] vice-President of said corporation on the 7th day of July, 1914, or at any time, or at all. Deny any knowledge or information sufficient to form a belief as to whether or not the president of the said corporation resigned on the first day of December, 1914, and as to whether or not the said Martin Seahill took the office of president upon the resignation of December 1st, 1914; Admit that the plaintiff, Patrick Lee, is the acting secretary-treasurer of the said corporation, but deny that he is the duly elected or qualified secretary-treasurer of said corporation. Admit that Patrick O'Neill is the acting recording secretary of said corporation, but deny that said Patrick O'Neill is the duly elected and qualified recording secretary of said corporation. Admit that Mike A. Sullivan and Patrick Quigley are acting trustees of said corporation, but deny that said Mike A. Sullivan and Patrick Quigley are the duly elected and qualified trustees of said corporation.

IV. Admit the allegations contained in the fourth paragraph of said affidavit; that is, the allegations setting forth the beginning and commencing of the action in the District Court of the Second Judicial District, of the State of Montana, against the defendants Martin Seahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan, James Tyan, James Walsh and Patrick Quigley, and the proceedings had and done in said action, as set forth in said paragraph four, and that the exhibits referred to in said paragraph four are true and correct copies of the

pleadings and instruments that they purported to be copies of, save and except typographical errors.

V. Admit the allegations contained in the fifth paragraph of the affidavit for writ herein.

VI. Admit that the amendment of the constitution of the Western Federation of Miners, under and by virtue of which the plaintiffs claim the relief prayed for in the amended complaint [208] in the action in the District Court, is in words and figures as set forth in the sixty paragraph of the affidavit for writ, on file herein.

VII. Deny that the District Court was without jurisdiction, or is without jurisdiction, to make or enter the order dated June 12, 1915, and attached to the affidavit for writ as exhibit IX, was without jurisdiction, or was in excess of any jurisdiction in making and entering the order dated June 14, 1915, and attached to the affidavit for writ herein and marked exhibit X. Deny that the said Court was or is proceeding under a mistake of law or a mistake of fact. Deny that the said amendment to the constitution of the Western Federation of Miners is void for the reason set forth in the affidavit for writ, on file herein, or for any other reasons.

VIII. Deny that The Butte Miners' Union, a corporation, is interested in the proceedings in the action in the District Court numbered A-6590, or in the proceedings herein.

IX. Deny that there is no plain, speedy, or adequate remedy by appeal from the order of the District Court of June 21<sup>th</sup>, 1915, or the order of June 14, 1915, and deny that the property in control of

The Butte Miners' Union, a corporation, is taken from the said corporation or from its duly elected officers.

X. Deny that the affairs of said corporation and its property and business are placed in the hands of persons under no obligation to said corporation or whose interests are directly, or at all, derogatory to said corporation or adverse in any respect to said corporation, or who claim, or did claim, the property of said corporation for themselves or for any other person or persons whatsoever, or who intend, or ever did intend to appropriate the property of said corporation to the use of the Western Federation of Miners or any other person or persons whatsoever, or who have tried to appropriate the said property for any such use or any uses. Deny that the plaintiffs named in the [209] amended complaint, or other officers, or their agents, or their servants, or any persons working in harmony with them, intend to disrupt, disorganize and bankrupt, or disrupt, or disorganize or bankrupt the said corporation, or that they would have disrupted, disorganized, or bankrupted, said corporation before an appeal would be heard in this court or at any time, or at all. Deny that the said corporation, The Butte Miners' Union, is deprived of the right to conduct its business and affairs granted it by the laws of the State of Montana, or is deprived of its control of its affairs, property, business, rights, or that its privileges, or any privileges, are taken from it. Deny that the said order, or any *other* of the said District Court deprives Martin Seahill, Patrick Lee, Patrick O'Neill, Mike A.



Sullivan, and Patrick Quigley of any rights and privileges that they have in said corporation, save and except such rights and privileges as they may be deprived of by the members of the corporation itself acting under and by virtue of its own by-laws, rules and regulations for the conducting of its business. Deny that Guy E. Miller and the other plaintiffs in the action in the District Court and their agents, servants and persons in harmony with them or other agents, servants and persons in harmony with them, or their servants, have at any time, or at all, taken possession of, or had possession of, any part of portion of the books, records, papers, or other property of said corporation, save and except a seal which was granted to said corporation by the Western Federation of Miners and which said seal has, since the issuing of the order to show cause out of this court, been returned and given into the possession of Patrick Lee, one of the defendants in the said action in the District Court, and four other persons who accompanied him, claiming to be a committee from the said Butte Miners' Union, a corporation, which said seal was so delivered on the 29th day of June, 1915. Deny that Guy E. Miller [210] or his agents, or any of the persons named as plaintiffs in the action in the District Court, or any person in harmony with them, or any person under their direction or in their employ, or control, published, or caused to be published, the article set forth in the affidavit for writ herein alleged therein to have been published in the "Butte Daily Post" of June 16, 1915; and deny that they are in any manner, or at all, responsible for



the publication of said article; and deny that the plaintiffs in the said action in the District Court, or their agents, or other officers and servants, or servants, or any persons whatsoever in their employ, or under their control, are offering to take into membership of The Butte Miners' Union, a corporation, any person or persons upon the payment of One and no/100 (\$1) Dollar, or that they are dictating, or assuming to dictate, any of the policies, or any policy, of the said corporation or the affairs, or any affairs or the conducting of any affairs of the said corporation, or that they are depriving the said corporation of all of its rights, or any of its rights, as a corporation; or that they are depriving the members of said corporation of their inalienable rights, or any rights as members of said corporation.

Deny that the relators herein will be greatly and irreparably, or at all, damaged; or that their property is taken from their control, or that they will be unable to secure a meeting place, or to conduct the meetings of the corporation and the business of the corporation, pending an appeal from the orders of the District Court, or at all, or that the corporation is prevented from going ahead and repairing their property, save and except that pending the hearing within the corporation of the charges filed and made against the defendants in the action in the District Court by members of the corporation and the determination of said charges and the removal of said officers and the election of new officers if the charges be found true, as [211] provided for in the by-laws, rules and regulations of said corporation; and

deny that the property of said corporation will greatly, or at all, deteriorate in value by reason of any delay caused by the proceedings in the District Court, or that the business of said corporation will be irreparable, or at all, injured by the proceedings in the said District Court or by any act of these respondents and defendants, or any one under their control or in their employ. Deny that the membership of said corporation are refusing to pay dues for the purpose of keeping up the said corporation or for fear that the funds so accumulated will be turned over to Guy E. Miller and Charles H. Moyer, officers of the Western Federation of Miners, or that by reason of the failure of the membership of the said corporation to pay dues the aims and objects of the corporation will be defeated, or that the membership of said corporation will be demoralized; and, in this connection, allege the fact to be that if any of the members of said corporation are refusing to pay dues it is because of and on account of the failure of the officers of said corporation to abide by and conduct themselves in accordance with the by-laws, constitution, rules and regulations of the said corporation and its membership for the conducting of its business.

Deny that the subject matter of the action in the District Court is without the jurisdiction of the said District Court, and deny that the property and effects of The Butte Miners' Union, a corporation, have been, or are, delivered over to the plaintiffs in the said action in the District Court. Admit that by reason of the said order of the District Court

the defendants named in said action in the said District Court, save and except James Walsh and James Tyan, are enjoined and restrained from in any way or manner interfering with the plaintiffs, as set forth in said order of said District Court; and, in this connection, these answering defendants and respondents allege [212] the fact to be that under and by virtue of said order the said District Court has retained, and does retain, the right to fully control, restrain, or prohibit, the acts, or any acts, of the plaintiffs in the said action in the said District Court, and in this connection these answering respondents and defendants allege the fact to be that the plaintiffs herein, have not at any time, or at all, since the making of said order, complained to the District Court or the Honorable John B. McClerman, of said court, of any act or acts of the plaintiffs done under and by virtue of the orders of said District Court, and have not petitioned or moved the said District Court to in any way modify, change, enlarge or limit, or add to, or strike from, said order of said District Court; the power to do all of said acts is within said District Court and the Judge thereof, if properly petitioned or moved therefor and proper and sufficient showing made therein for any of said purposes or for any such relief.

Deny that the relators herein, or any of them, will suffer great and irreparable injury, or any injury pending appeal, because of the insolvency or alleged insolvency of the respondent and relators herein, and deny that the respondents and relators herein are insolvent.

Admit that the order of the District Court does not exact a bond from the said plaintiffs in the District Court in any amount; and, in this connection, allege the fact to be that the said District Court, having full and complete charge and control of all acts and things done under and by virtue of said order and having by said order restrained both parties, plaintiffs and defendants, from doing certain acts and from doing anything that would interfere with the conduct of said corporation, The Butte Miners' Union, there could be no injury done or loss sustained by the said corporation, or any person whatsoever, on account of the said order of the said District Court; and that at the time that it is alleged in the affidavit herein that counsel demanded a bond on the said order, the said demand was made in [213] behalf of the defendant in said action in said District Court, whom, it did not appear, could suffer any injury that was not entirely reparable without a bond.

Deny that the relators will suffer great and irreparable injury by the said order of the District Court, which injury cannot be remedied by appeal by reason of the fact that the action in the said District Court was brought against the officers of The Butte Miners' Union No. 1, W. F. of M., as individuals and not against the officers, or for any reason, or at all, on account of said action; and deny that there is any confusion or will be any confusion, in the affairs of said corporation or the installation of officers in said corporation by reason of the said order of the District Court, on the 6th day of July,



1915, or at any time, or at all. These respondents and defendants deny that prior to the making of the said order of the District Court the plaintiffs, herein, or the defendants in the said District Court, were, by the Western Federation of Miners and its executive officers, or the Western Federation of Miners, or its executive officers, suspended from membership, or that The Butte Miners' Union, a corporation, withdrew, voluntarily or otherwise, from the Western Federation of Miners, on or about the 15th day of January, 1915, and prior to the making and filing of the conclusions of law and the making and entering of the order in the said District Court complained of in the affidavit of the relators herein, and as to the individual relators herein, Martin Seahill, Patrick Lee, Patrick O'Neill, M. A. Sullivan and Patrick Quigley, these answering respondents deny any knowledge or information sufficient to form a belief as to their acts in the matter of withdrawing from membership in the Western Federation of Miners, therefore, deny the same. And these relators deny any knowledge or information sufficient to form a belief as to the passage of any [214] resolution by the said Butte Miners' Union, a corporation, or the members thereof withdrawing from the Western Federation of Miners, prior to the making and entering of the said orders of the District Court, and therefore deny that any such resolution was ever made.

Deny that a resolution of The Butte Miners' Union, a corporation, was on the 15th day of June, 1915, passed by the said Butte Miners' Union, a cor-



poration, withdrawing from the Western Federation of Miners, or severing contractual relations therewith or that public notice of any such resolution was ever given to these respondents and defendants; but, in this connection, these respondents and defendants allege the facts to be that there was, on or about the 16th of June, 1915, published in the newspapers of the City of Butte, County of Silver Bow, what purported to be a resolution of The Butte Miners' Union withdrawing from the said Western Federation of Miners, and that said purported resolution so published, was claimed to have been passed at a meeting of The Butte Miners' Union, a corporation, on the 15th day of June, 1915, and after the hearing in the said District Court and after the giving and making of the said orders in the said District Court.

Deny that the relators herein will suffer great and irreparable injury, or any injury, that an appeal will not render on account of or for the reason of delay incident to the taking and making of said appeal, or that the said Butte Miners' Union, a corporation will be destroyed, or that it will be deprived of its property or the use thereof, or of its books, records or other things necessary for the conduct of its business, or that it will be compelled to incur additional expense, or any expense other than that now incurred regularly for the procuring of the quarters to meet in or for books of record, or that it will be prevented from purchasing all of its necessary supplies, books [215] and records, for the conduct of

its business, out of its funds, or that it will be prevented from caring for its sick or burying its dead.

Deny that the relators herein will suffer great and irreparable injury, or any injury, which cannot be remedied by the right of appeal on account of the cost of a transcript on appeal; and, in this connection, these relators and defendants allege the fact to be that The Butte Miners' Union, a corporation is not a party to the action in the District Court and has at no time asked to be made a party to the said action in the said District Court, and cannot and will not be injured by reason of the fact that the District Court has not and did not make an order allowing Eight Hundred and no/100 (\$800) Dollars of its funds to be expended for the purpose of securing a transcript on appeal for Martin Seahill, Patrick Lee, Patrick O'Neill, M. A. Sullivan, and Patrick Quigley, the defendants in the action in the said District Court, and allege the fact to be that it is Eight Hundred and no/100 (\$800) Dollars better off and has saved Eight Hundred and no/100 (\$800) Dollars to the benefit, use and account of its members on account of the refusal of said District Court to sign said order allowing its money and property to be expended and used for the purpose of paying for a transcript on appeal for the said individual defendants in the said action in the said District Court.

And these respondents and defendants further allege the fact to be that before presenting the said order to the said District Court and requesting the said District Court to sign said order, allowing the

use of the funds of said Butte Miners' Union, a corporation, for the preparing of a transcript, counsel for the defendants in the action in the said District Court informed the said District Court, in open court, that he would have the whole matter in the Supreme Court and before the Supreme Court of the [216] State of Montana on or before Wednesday the 30th day of June, 1915, and that thereupon the said District Court, through the Honorable John B. McClernan, Judge therein presiding, stated to said counsel of the said defendants, in said action in the said District Court, that as long as he was taking that proceedings it would be at that time unnecessary to consider the application for the use of the funds of The Butte Miners' Union, a corporation, for the purpose of preparing a transcript on appeal, and that before making any further order in the matter he would await the action of the Honorable Supreme Court of the State of Montana on whatever proceeding counsel for the plaintiffs intended to have before the said Supreme Court on or before Wednesday, the 30th day of June, 1915, and that the said Honorable John B. McClernan, Judge of said District Court, thereupon and at that time and upon the representation of counsel for the defendants in said District Court that he would have the whole matter before the said Supreme Court as hereinbefore set forth, did continue and set over the hearing upon the citation for contempt theretofore issued out of the said District Court from that day, which was Saturday the 26th day of June, 1915, to Thursday, the 1st day of July, 1915.

Admit that the defendants in the action in the District Court did, on the 26th day of June, 1915, give notice of appeal from the order of the District Court, herein complained of, and did file said notice of appeal in said District Court; and, in this connection, further allege the fact to be that on the 28th day of June, 1915, the said defendants in the said action in the District Court did file in said District Court their bond of undertaking on appeal in the sum of Three Hundred and no/100 (\$300) Dollars, signed by one C. C. Peoples and one L. Duggan and that said appeal is now pending.

These answering respondents and defendants deny that the relator, The Butte Miners' Union, a corporation, will suffer, has [217] suffered, or is suffering, any damage or injury whatsoever in its litigation in the District Court of the Second Judicial District, of the State of Montana, concerning the destruction of its hall, or any litigation in which it may be a party, on account of or *owning* to the order or orders of said District Court in the said action now pending in the said District Court; or that it has suffered, is suffering, or will suffer, any damage or injury in its action, or any action in South Dakota, by reason of the said order or orders of the District Court in the said action now pending in the said District Court or any other action; and deny that the said Charles H. Moyer, that the said Guy E. Miller, or any person or persons in their employ or under their control, or any person or persons acting in conjunction with them, are asserting the right, or have asserted the right, or are asserting the right, or have



asserted the right, or are going to assert the right to control or conduct the litigation of the said Butte Miners' Union, a corporation; and, in this connection, allege the fact to be that if any such right were asserted it would be and could be speedily passed upon and determined in the court in which the same would be asserted without any loss or injury whatsoever to any of the parties defendant in the District Court in the action therein pending or any of the parties relator herein.

Deny that the defendants in the action alleged in the affidavit for the writ herein to be pending in the Black Hills in South Dakota, in Lawrence County, in said state of South Dakota, claimed by reason of the order of the District Court of the Second Judicial District, complained of herein, to be entitled to the property therein involved, or to any property or rights of the relator The Butte Miners' Union, a corporation. Deny that by reason of the said order of the said District Court of the Second Judicial District, the Honorable John B. McClernan, presiding therein, the relators herein, or any of them, will be prevented from procuring the funds and money necessary to secure the presence of counsel and necessary witnesses to properly protect their [218] rights at the said trial in the said court of South Dakota, or in any other court.

These answering respondents and defendants admit that subsequent to the order of the said District Court made on the 14th day of June, 1914, certain individual respondents and defendants herein, along with others aside from the court and Judge of the



Second Judicial District of the State of Montana, made and filed affidavits and petitions for citation to certain of the relators herein to show cause why they should not be punished as for contempt for failing to obey the said order of the District Court, but deny that they consisted generally in claiming that the persons therein alleged to be contemnors had performed, or were performing their duties, in carrying on the business of The Butte Miners' Union, a corporation, and admit that the said District Court of the Second Judicial District, of the State of Montana, wherein the said action was pending and wherein the said citation for contempt is pending, will at the proper time, if permitted by this Court, proceed to a hearing upon said citation and to a determination thereof.

Deny that the plaintiffs herein will, by reason of the order of the District Court made as hereinbefore complained of, suffer great and irreparable injury by reason of Guy E. Miller, personal representative and attorney in fact of Charles H. Moyer, President of the Western Federation of Miners, attempting to usurp the name of The Butte Miners' Union, a corporation, for the reason that the said Guy E. Miller has not, is not, will not, and cannot usurp or attempt to usurp or appropriate the name of The Butte Miners' Union, a corporation; and deny that the relator, The Butte Miners' Union, a corporation, or any of the relators herein, will be injured on account of said Guy E. Miller calling for recruits and volunteers to build up the relator, The Butte Miners' Union to become members thereof;

and deny that the said [219] Guy E. Miller, as attorney in fact of Charles H. Moyer, President of the Western Federation of Miners, or in his individual capacity, or any one in his employ, or under his control, or acting as his agent, is at all attempting, or has at all attempted to destroy The Butte Miners' Union, a corporation; or is attempting, or has at all attempting, or will attempt to establish a rival Miners' Union organization or will usurp, or attempt to usurp the rights and privileges of The Butte Miners' Union, a corporation of or any other person or persons whatsoever.

Deny that the affiant Martin Scahill makes, or did make the affidavit for writ herein for or on behalf of all of the relators and plaintiffs in this proceeding, but in this connection allege the fact to be that he, the said Martin Scahill, made the said affidavit for the purpose of causing delay and preventing the said orders of the District Court being carried into force and effect or being proceeded under until such time as his term of office and the term of office of the individual defendants in the action in the District Court would expire, thereby attempting to entirely set at naught and to render void and useless and as a mere sham the orders of the said District Court, herein complained of.

WHEREFORE; These answering respondents and relators pray that the order to show cause herein be dismissed, and that the petition of the relators herein for a writ of supervisory control herein be dismissed, and that the respondents and defendants

herein have and recover their costs from the relators herein.

And further answering said affidavit for writ and petition for writ herein, these respondents and defendants allege:

I. That they, nor either of them nor any of them, have not at any time, or at all, save and except Ed O'Byrne, who is a member of The Butte Miners' Union, a corporation, claimed to be the [220] owner of the property of The Butte Miners' Union, a corporation, that they have not, at any time, or at all, sought to take away or remove any of the property of The Butte Miners' Union, a corporation, and that all that they have sought to do, or attempted to do, in the proceedings in the District Court, or in any other matter, has been, and is, to have carried into effect the will and desire of the members of The Butte Miners' Union, a corporation who presented and made charges in writing against the defendant officers of The Butte Miners' Union, a corporation, and to have the said charges and accusations heard and determined before The Butte Miners' Union membership or a proper committee thereof and if found true to have an election of new officers, conducted in a proper manner and in accordance with the by-laws, rules and regulations and laws of The Butte Miners' Union, a corporation, and allege that in this connection the defendant officers of The Butte Miners' Union, who were defendants in the District Court, have at all times since the filing and making of the said charges set forth in the amended complaint, in the proceeding in the District Court,

sought and endeavored to prevent the said charges from being heard and determined and to prevent themselves being tried upon the said charges.

II. That the respondents and defendants herein have, since the issuance of the order to show cause out of this court in this action, complied in every particular with the commendments of said order to show cause and have not now, nor have they had since the issuance of said order to show cause and its service upon them or any of them, any property or thing whatsoever belonging to The Butte Miners' Union, a corporation, or claimed by its officers to belong unto the said Butte Miners' Union, in their possession or under their control. That they *are* not in any manner or at all, interfered with the business of The Butte Miners' Union, a corporation, but were, prior to the issuance of said order to show [221] cause, doing everything in their power to build up, protect, and preserve The Butte Miners' Union, a corporation, and its property, and the rights, and privileges of its members, and are still desirous of doing the same, but that they have at all times been interfered with and prevented by the respondents, Martin Seahill, Patrick Lee, Patrick O'Neill, M. A. Sullivan and Patrick Quigley, from doing anything whatsoever toward carrying out the will of the membership of said corporation or enforcing the laws, rules and regulations of said corporation.

III. That they have at all times acted within the by-laws, constitution, rules and regulations and the charter contract of The Butte Miners' Union, a cor-



poration, and the Western Federation of Miners, as the same are and appear, and have acted within and in accordance with the laws of the State of Montana and not contrary to the said laws of the State of Montana, and are now seeking to do the same.

IV. That the following is a true and correct statement of the proceedings in the action in the District Court of the Second Judicial District, of the State of Montana, referred to in the affidavit of Martin Scahill for writ herein and in which proceeding the restraining order and injunction, complained of, was issued as the same appears from the register of actions and the journal of the District Court, of the Second Judicial District, of the State of Montana;

The action of the Western Federation of Miners, a voluntary organization, association of persons, with its headquarters in the City and County of Denver, State of Colorado, Charles H. Moyer, president of the Western Federation of Miners, a voluntary organization and association of persons, with its headquarters in the City and County of Denver, and State of Colorado; Guy E. Miller and Ed O'Byrne, as plaintiffs, against Martin Scahill, Patrick Lee, Patrick O'Neill, Mike A. Sullivan, James Ryan, James Walsh and Patrick Quigley, as defendants, seeking [222] on injunction against the said defendants, was begun in the District Court of the Second Judicial District of the State of Montana, on the 17th day of December, 1914, by the filing of a complaint in said court, and summons was thereupon issued by the said Court.

On the 19th day of December, 1914, the order to



show cause which was issued out of the said court and signed by Judge Jeremiah J. Lynch on the 17th day of December, 1914, along with the summons so issued, was returned served and filed.

On the 21st day of December, 1914, a motion to quash the service of summons and the order to show cause was set for hearing December 28th, 1914, the said motion to quash service of summons being filed on the same day, and the order to show cause was set for hearing on December 28th, 1914.

On December 28th, 1914, the order to show cause was continued for hearing until December 29th, 1914, and the motion to quash was taken under advisement.

On December 29th, 1914, the motion to quash was granted and the order to show cause dismissed; plaintiffs were granted an exception and twenty days to prepare and serve a bill of exceptions, as appears from Journal A J., page 325, of the District Court of the Second Judicial District of the State of Montana, which reads as follows (after title of court and cause):

“This day, the motion of defendants to quash the alleged service of summons herein, heretofore taken under advisement, is by the Court granted, to which ruling of the Court counsel for the plaintiffs herein excepted and asked for and was by the bill of exceptions thereto. Thereupon, the order to show cause herein was by the Court ordered dismissed.”

That the said summons, or alleged summons, the service of which is referred to as being quashed by the above minute in the journal of said court is as follows, to wit: [223]

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Vol-  
untary Organization, Association of Persons  
With Its Headquarters in the City and County  
of Denver, State of Colorado, and CHARLES  
H. MOYER, President of WESTERN FED-  
ERATION OF MINERS, etc., et al.,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK  
O'NEILL, MIKE A. SULLIVAN, JAMES  
RYAN, JAMES WALSH and PATRICK  
QUIGLEY,

Defendants.

The State of Montana Sends Greetings to the Above-  
named Defendant:

You are hereby summoned to answer the complaint  
in this action which is filed in the office of the clerk  
of this court, a copy of which is herewith served  
upon you, and to file your answer and serve a copy  
thereof upon the plaintiffs' attorney within twenty  
days after the service of this summons, exclusive of  
the day of service; and in case of your failure to ap-  
pear or answer, judgment will be taken against you  
by default, for the relief demanded in the complaint.

WITNESS my hand and the seal of said court this  
17 day of December, A. D. 1914.

[Seal]

JOHN FOLEY,  
Clerk.

By J. F. Driscoll,  
Deputy Clerk.

Sheriff's Office,  
County of Silver Bow, Montana.

I do hereby certify that I received the within Sum-  
mons on the 18th day of December A. D. 1914, and  
personally served the same on the 18th day of Dec.  
A. D. 1914, and by exhibiting the original and de-  
livering a true copy thereof, together with a copy  
of the complaint and order to show cause in said  
action to Martin Scahill, Patrick Lee, Patrick  
O'Neill, Mike A. Sullivan, James Ryan, James  
Walsh and Patrick Quigley and after due and dili-  
gent search and inquiry was unable to find .....  
..... 1, in the County of Silver Bow, Montana,  
.... being the defendant. [224]

Dated this 19th day of December, A. D. 1914.

JNO. BERKIN,  
Sheriff.

By M. McPherson,  
Deputy.

Copy .....	\$—
Service .....	\$—
Mileage .....	\$—
	—
Total,	\$—

[225]

[Endorsed]: Ent. No. A-6590. In the District Court of the Second Judicial District of the State of Montana, Silver Bow County. Western Federation of Miners, etc., et al., Plaintiffs, vs. Martin Scahill, et al., Defendants. Summons. Filed Dec. 19, 1914. John J. Foley, Clerk. By J. F. O'Brien, Deputy Clerk. Canning & Geagan, Attorneys for Plaintiff.

That thereafter, on the 13th day of December, 1914, summons was issued out of the above-entitled court, in the above-entitled cause, as follows:

*In the District Court of the Second Judicial District  
of the State of Montana, in and for the County  
of Silver Bow.*

WESTERN FEDERATION OF MINERS, a Voluntary Organization, Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, and CHARLES H. MOYER, President of the WESTERN FEDERATION OF MINERS, a Voluntary Organization and Association of Persons, With Its Headquarters in the City and County of Denver, and State of Colorado; GUY E. MILLER and ED O'BYRNE,  
Plaintiffs,

vs.

MARTIN SCAHILL, PATRICK LEE, PATRICK O'NEILL, MIKE A. SULLIVAN, JAMES RYAN, JAMES WALSH and PATRICK QUIGLEY,  
Defendants.

The State of Montana Sends Greetings to the Above-named Defendants:

You are hereby summoned to answer the complaint in this action which is filed in the office of the clerk of this court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the plaintiffs' attorney within twenty days after the service of this summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the complaint.

Witness my hand and the seal of said court this 31st day of Dec. A. D. 1914.

[Seal]

JOHN FOLEY,

Clerk.

By J. F. O'Brien,

Deputy Clerk. [226]

Sheriff's Office,

County of Silver Bow, Montana.

I do hereby certify that I received the within Summons on the 2d day of January, A. D. 1915, and by exhibiting the original and delivering a true copy thereof, together with a copy of the Complaint in said action of Martin Seahill, Patrick O'Neill, Mike A. Sullivan, Richard Quigley and Patrick Lee and after due and diligent search and inquiry was unable to find James Ryan and James Walsh in the County of Silver Bow, Montana, they being the defendants named in said Summons.



Dated this 1st day of February, A. D. 1915.

CHAS. S. HENDERSON,  
Sheriff.

By P. A. Stevens,  
Deputy.

Copy .....\$ ——

Service .....\$5.00——

Mileage.....\$1.00——

---

Total \$6.00——

[Endorsed]: Ent. No. A-6590. In the District Court of the Second Judicial District of the State of Montana, Silver Bow County ..... Plaintiff, vs. .... Defendant. Summons. Filed L, 1915, John J. Foley, Clerk. By J. F. O'Brien, Deputy Clerk. Canning & Geagan, Attorneys for Plaintiffs.

And on the 2d day of January, 1915, an order to show cause was issued out of the above-entitled court, signed by Jeremiah J. Lynch, Judge of said court, made returnable on the 4th day of January, 1915, at 10 o'clock, A. M.

That thereafter, on January 2d, 1915, the affidavit of Patrick O'Neill, was filed in the above-entitled action, disqualifying Judge Jeremiah J. Lynch.

That on the same day an order shortening time of hearing on order to show cause was signed and filed in the above-entitled action. [227]

On January 4th, 1915, John B. McClernan was called in to hear and pass upon all pending matters and try this case, and the case was ordered transferred to Department II of this court, as appears by

Journal A J, page 337, thereof, and as appears by Register of Actions No. 1 of Transferred Cases of Department II, by the following entry: "1915, Jan. 4, Cause Transferred from Dep. I."

January 4, 1915, motion to quash summons and the service thereof filed.

January 4, 1915, order to show cause continued for hearing until January 6, 1915.

January 6, 1915, order to show cause continued for hearing until January 13, 1915.

January 11, 1915, Judge J. Miller Smith of the First Judicial District, called in to try case, Judge John B. McClernan being at that time, forced, on account of previous agreement, to hold court at Boulder, Jefferson County, Montana, in the Fifth Judicial District.

January 13, 1915, order to show cause continued for hearing until January 14, 1915, at 10 A. M.

January 14, order to show cause continued for hearing until January 15, 1915, J. Miller Smith declining to hear the case on account of being compelled to return to Helena.

January 15, 1915, order to show cause continued for hearing until January 16, 1915.

January 16, 1915, leave to file amended motion to quash granted and amended motion to quash filed. Order to show cause continued for hearing until January 21, 1915.

January 20, 1915, subpoena returned, served and filed.

January 21, 1915, order to show cause continued for hearing until January 25, 1915.

January 25, 1915, argument on motion to quash service of [228] summons; not being concluded, continued to Saturday 30, 1915.

January 30, 1915, motion to quash order to show cause filed. Affidavit filed. Motion to dismiss filed. Demurrer to complaint filed. Motion to quash summons and to quash service of summons denied. Exception noted and twenty days to prepare and serve bill of exceptions. Motion to quash order to show cause denied. Motion to dismiss denied. Demurrer to complaint taken under advisement.

February 1, 1915, summons returned served, except James Ryan and James Walsh, and filed. Subpoena returned served and filed. Order to show cause returned, served and filed.

February 6, 1915, demurrer sustained; two days to amend. Order to show cause dismissed.

February 8, 1915, amended complaint filed, and order to show cause issued out of the above-entitled court, signed by John B. McClerman, Judge, directed to the defendants.

February 10, 1915, praecipe for subpoenas filed.

February 20, 1915, motion to quash order to show cause dated February 8, 1915, filed. Motion to quash denied; exception and twenty days to prepare and serve bill of exceptions. Demurrer to amend complaint filed. Demurrer overruled; exception and twenty days to prepare and serve bill of exceptions. Leave to file answer granted. Answer filed. Motion to require plaintiffs to elect upon which cause of action stated in the amended complaint they, or either of them, would proceed and to elect upon which plain-

tiffs will prosecute this action filed. Motion denied; exception and twenty days to prepare and serve bill of exceptions. Demand for records filed. Testimony on order to show cause heard; not concluded, continued to February 27, 1915. Order to show cause returned, served and filed. Bill of exceptions sign, settled, allowed and filed. Propose amendments to bill of exceptions filed.

February 24, 1915, demand to produce records filed.

February 27, 1915, testimony on order to show cause [229] heard; not concluded, continued to March 18, 1915.

February 27, 1915, subpoena *duces tecum* returned unserved and filed. Subpoena *duces tecum* returned served, except Patrick O'Neill, and filed. Subpoena returned served and filed.

March 13, 1915, praecipe for default filed.

March 13, 1915, entry of default by clerk filed.

March 16, 1915, order shortening time of notice filed. Reply filed.

March 18, 1915, affidavit in opposition to affidavit and motion to set aside default filed. Order to show cause continued for hearing until March 29, 1915.

March 29, 1915, order to show cause continued for hearing until March 31, 1915.

March 31, 1915, order to show cause continued for hearing until April 2, 1915.

April 2, 1915, order to show cause continued for hearing until April 15, 1915.

April 15, 1915, order continuing order to show cause of hearing ordered vacated.

May 1, 1915, further hearing on order to show cause set for May 12, 1915.

May 10, 1915, praecipe for subpoenas filed.

May 12, 1915, further hearing on order to show cause continued for hearing until May 13, 1915.

May 13, 1915, reply filed on March 16, 1915, refiled as of this date, motion to set aside default having been by the court granted and reply ordered filed.

May 13, 1915, testimony heard; not concluded, continued to May 14, 1915.

May 14, 1915, testimony heard, not concluded, continued to May 17, 1915. Subpoena returned served and filed.

May 17, 1915, testimony heard on order to show cause; not concluded continued to May 18, 1915.  
[230]

May 18, 1915, hearing an order to show cause continued to May 19, 1915.

May 19, 1915, hearing an order to show cause resumed; not concluded, continued to May 20, 1915.

May 20, 1915, hearing resumed; not concluded, continued to May 21, 1915.

May 21, 1915, hearing resumed; not concluded, continued to May 24, 1915.

May 24, 1915, testimony on order to show cause resumed and concluded. Argument set for hearing on May 27, 1915.

May 25, 1915, subpoena returned served and filed.

May 27, 1915, argument continued for hearing until June 1, 1915.

June 1, 1915, bills of exception signed, filed, allowed and settled.



June 1, 1915, argument resumed; not concluded, continued to June 2, 1915.

June 2, 1915, argument of counsel resumed and concluded. Order to show cause taken under advisement.

June 2, 1915, stenographer's notes filed. Stenographer's fees, \$6. Exhibits filed.

June 12, 1915, conclusions of law and decision of court on order to show cause filed. Defendants granted an exception and given thirty days to prepare and serve bill of exceptions.

June 14, 1915, temporary restraining order signed by court (a copy of which said temporary restraining order is attached to the affidavit of the relators herein).

June 17, 1915, order for citation for contempt signed and filed.

June 18, 1915, citation returned served and filed.

June 19, 1915, order returned served and filed.

June 26, 1915, defendants pleaded not guilty of contempt.

June 26, 1915, hearing on order to show cause why defendants [231] should not be punished for contempt continued to July 1st, 1915.

June 26, 1915, affidavit and order filed.

June 26, 1915, notice of appeal filed.

June 28, 1915, undertaking on appeal filed.

July 1, 1915, hearing an order to show cause why defendants should not be punished for contempt continued to July 8th, 1915.

That the above-set forth data in the case appears from the register of actions and the journals in the District Court of the Second Judicial District of the

State of Montana and from the files in the office of the clerk of the court of said district. That the notice of appeal mentioned above as being filed on the 26th day of June, 1915, is the notice of appeal of the defendants from the order and decision of the above-entitled court upon the completion of the hearing of the order to show cause; and that the undertaking on appeal above mentioned as filed on the 28th day of June, 1915, is the undertaking on appeal, in the sum of \$300, filed by the defendants, and which undertaking on appeal is signed by C. C. Peoples and L. Duggan, two residents of the county of Silver Bow, State of Montana. And that the said citation for contempt above referred to as being filed on the 17th day of June, 1915, is a citation for contempt issued to the defendants, except James Ryan and James Walsh, upon the affidavits of Guy E. Miller, one of the plaintiffs, and Charles Mahoney, claiming that the defendants disobeyed and disregarded the order of the above-entitled court made and entered on the 14th day of June, 1915, and that the same is now pending and has not been heard.

That the said respondent Honorable John B. McClerman has not at any time or at all during the pendency of this action, or at any other time, acted in an arbitrary, oppressive or tyrannical manner towards the defendants in the above-entitled action in the said district court, or any of them, and has had no intention or desire to so act, towards the said defendants, or any [232] other person or persons whatsoever in the said action named or interested, and has been guided entirely by the law and the

facts as they have appeared to him upon the hearing of the order to show cause in the said action. [233]

WHEREFORE: These respondents and defendants, having fully answered, they pray that the petition for writ of supervisory control, or other writ herein, be dismissed; that the order to show cause heretofore issued herein be dismissed; that the restraining order in said order to show cause, herein contained, be dismissed, and that the defendants and respondents have and recover their costs from the relators herein.

CANNING & GEAGAN,  
E. P. KELLY,

Attorneys for Respondents and Defendants.

State of Montana,  
County of Silver Bow,—ss.

John B. McClernan, being first duly sworn upon oath, deposes and says: That he is one of the Judges of the District Court of the Second Judicial District, of the State of Montana, that he is the judge named as one of the respondents in the above-entitled cause; that he has read the foregoing answer, knows the contents thereof, and that the same is true of his own knowledge, as to all matters and things set forth therein relating to the proceedings in the District Court and the acts of the Judge, and as to the others he believes them to be true.

JOHN B. McCLERNAN.

Subscribed and sworn to before me this 2d day of July, A. D. 1915.

[Notarial Seal] P. E. GEAGAN,  
Notary Public for the State of Montana; Residing at  
Butte, Montana.

My commission expires June 13, 1918.

State of Montana,  
County of Silver Bow,—ss.

Guy E. Miller, being first duly sworn upon oath, deposes [234] and says: That *he one* of the persons named as respondents and defendant in the above-entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters and things therein stated upon information and belief; and, as to these matters and things, he believes them to be true; and that he makes this verification in behalf of himself and each and all of the respondents and defendants herein.

GUY E. MILLER.

Subscribed and sworn to before me this 2d day of July, 1915.

[Notarial Seal] P. E. GEAGAN,  
Notary Public for the State of Montana; Residing at  
Butte, Montana.

My commission expires Jan. 13, 1918.

Service of the foregoing Answer acknowledged and copy received this 3d July, 1915.

\_\_\_\_\_,  
\_\_\_\_\_,  
Attorneys for Relators. [235]

**Exhibit "O" to Answer—Order Annulling Order  
Directing Issuance of Injunction Western Fed-  
eration of Miners et al. vs. Scahill et al.**

3697.

State ex rel. Scahill vs. District Court.

The order directing an injunction to issue in the case of Western Federation of Miners et al. vs. Martin Scahill et al., made on June 12, 1915, is annulled and the district court is ordered to set it aside.

Opinion to be delivered at the convenience of the Court.

Service of the foregoing answer accepted and copy received this 17th day of November, 1915.

CANNING & GEAGAN,

P. E. GEAGAN,

E. P. KELLY,

O. N. HILTON,

Attorneys for Plaintiffs.

Filed November 18, 1915.

[Endorsed]: Title of Court and Cause. Answer.  
Filed November 17, 1915. Geo. W. Sproule, Clerk.  
By Harry H. Walker, Deputy Clerk. [236]

**Order Amending Bill of Complaint.**

That thereafter on February 11th, 1916, on Motion of Complainants, the Court allowed to be struck from the Bill of Complaint and the Bill of Complaint amended by striking therefrom the names of the complainants, Thomas Owen, J. E. Commins, Charles Pogorelic, Yanco Terzich, J. C. Williams, C.



E. Bright, Charles Detrich, William Burns, J. A. Herndon, Thomas McManus, E. G. Lock, James Hanley, W. T. Quinn, Phillip Ryan, William Stanlick, Guy E. Miller, Rufus Blaylock, Thomas Gorman, Emanuel De Mio, L. S. Sexton, Samuel W. Monroe, William Davidson, Frank Phillips, James Roberts, Joseph Gorman, and M. C. Leake, and the citizenship and residents of the said named persons.

Said order granting said motion being as follows:

“This cause came on regularly at this time on the motions heretofore filed herein, to amend bill of complaint and to strike from answer and for trial. P. E. Geagan and O. N. Hilton, Esqs., appearing on behalf of the plaintiffs and Peter Breen, Esq, on behalf of the defendant. Thereupon motions to amend bill of complaint and to strike from answer, argued and submitted and thereupon the Court, after due consideration, ordered that the motion to amend the bill of complaint be granted. Thereupon defendant objects to the ruling of the Court, and exception noted.”

Entered in open court Feb. 11, 1916.

GEO. W. SPROULE,

Clerk.

By Harry H. Walker,

Deputy Clerk.

And on May 13th, 1916, the opinion of the Court was filed herein as follows, to wit: [237]

*United States District Court, Montana.*

CHARLES H. MOYER et al.

vs.

THE BUTTE MINERS' UNION.

Herein, the Court denies the plaintiffs' motion to strike from the answer in that it comes too late. And upon the trial of the suit the Court finds for the defendant and concludes it is entitled to decree as prayed for. The attached opinion is made a part hereof.

BOURQUIN, J.

[Endorsed]: Title of Court and Cause. Memo. Filed May 13, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. [238]

*In the District Court of the United States, in and for  
the District of Montana.*

No. 33—IN EQUITY.

CHARLES H. MOYER et al.,

Plaintiff,

vs.

BUTTE MINERS' UNION,

Defendant.

### Opinion.

Plaintiffs sue in behalf of themselves and all other members of the Western Federation of Miners, an unincorporated association, to compel defendant, an incorporated labor union, to specifically perform a contract to transfer all its property to the Federation. Defendant denies the contract, pleads it is

*ultra vires*, and seeks to quiet title. It appears defendant, the ordinary labor union, with incidents of dues and benefits, was incorporated in 1881 under laws of Montana permitting incorporation of churches, secret societies, granges, and like associations. 1879, R. S. Mont. 463. These laws provided that articles setting out the association's business or objects and "The number of trustees to conduct the same" should be filed by the trustees, whereupon the association would become a body corporate, with power "to establish a constitution and by-laws and make all such rules and regulations as may be deemed expedient" for admission to and termination of membership and "for the management of its affairs, in accordance with law," and to hold and dispose of property. Defendant's articles declared its objects to be to promote and protect the interests of its members, to hold property necessary to that end, and to establish branches subject to defendant's rules and regulations. The applicable laws were subsequently re-enacted, but the changes therein did not enlarge the powers conferred. See 8th Sess. Laws, p. 141.

In 1893 delegates from defendant and other labor unions organized the Federation, and for it adopted a constitution and by-laws providing for government over both unions and their members, with penalties, fines, and expulsion for *any their* violation. For instance, unions [239] were forbidden to strike until ordered by a two-thirds vote taken with prior approval of Federation officers; unions could be ordered on sympathetic strike by Federation offi-

cers; when any union was in "trouble" Federation officers should be "summoned and given full charge in the direction of negotiations"; unions could not enter into wage agreements with employers, save for a specific time and with the approval of Federation officers; unions should try members who violate their obligation to the Federation, etc., final judgment being with the Federation, the latter also having power to try any union's members and to render final judgment; unions should permit members to withdraw and members from other unions to join; propositions could be settled by a referendum to all members of the Federation; unions should administer to initiates the obligation of fidelity to the Federation by it prescribed, and should elect officers in accordance with Federation law; any union reduced to less than ten members "may be considered defunct, and surrender its charter and books to the Federation," the union's property by the Federation to be held in trust for one year, to be returned to the union, if reorganized, otherwise to become property of the Federation.

A form of charter to be issued to unions also was adopted, wherein it was provided that thereby the union was authorized and empowered to transact business and to initiate members in accordance with the Federation's laws and rules; that the union would conform to said laws and rules, in default of which the charter could be revoked and the union suspended; that, should the "union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books, and papers shall become

the property of the'' Federation; and concluding that, in consideration of the union's compliance with Federation laws, the Federation would "sustain" the union "in the exercise of all rights, privileges and benefits as a local union under its protection."

[240]

In 1893 defendant received a charter from the Federation, but denies the allegation of the complaint that it contained that aforesaid termed "property forfeiture clause." In 1914 this charter was destroyed in the Butte riots, and defendant sought its reissuance. The Federation issued a charter, and after some delay defendant refused to accept it because of said forfeiture clause therein, and withdrew from the Federation. Thereupon this suit was commenced. The complaint ignores all prior to the 1914 charter, and alleges only it and its acceptance by defendant as the contract of which specific performance is sought.

The answer, however, sets out all the foregoing. It also pleads matter tending to show misconduct of Federation officers (fit subject for internal discipline), and that defendant had made a poor bargain, all of no materiality to the issues. The plaintiffs' case would have failed, but for that the suit has been tried as though the complaint alleged the contract or arrangement between the Federation and defendant (the constitution, by-laws, and 1893 charter), instead of alleging only a copy (the 1914 charter) of part of it.

It is observed that the situation is not that of a subordinate union association lawfully created by,



deriving its powers from and subject to the control of, a superior union organizaion, seceding therefrom, but it is that of an independent corporation, created by the State, with powers conferred and duties imposed upon it by the State, and subject to no control save its own and that of the State, repudiating an arrangement by which it had surrendered those powers and duties to an organization created by defendant, and assuming to exercise its powers and perform its duties itself.

With that in mind, the defense of *ultra vires* is made out. Defendant derived all its powers from the State, and could do nothing, enter into no contracts, not within the powers so granted. By the law of its incorporation and its articles, defendant was vested with certain powers. It was created an independent body, subordinate to none other, but with authority to establish branches subordinate, and not [241] superior, to itself. All its powers were to be exercised by itself—by its members, officers, and trustees. Their judgment, discretion, and policy were to control in all that concerned defendant. No power was given it to abdicate the authority conferred upon it by the State and to subordinate itself and its interests to any other persons or associations. It was given no power to relinquish self-control and management, and to bind itself to accept the judgment, discretion, and policy of others. Any contract or agreement assuming to do these latter would be beyond its powers, and so invalid.

It is apparent its contract or agreement with the Federation, hereinbefore set out, is of this character.

Under it defendant was practically reduced to merely registering the Federation's will. Defendant could not even determine its own membership. It could be compelled to strikes and other acts, perhaps against its interests and will, when ordered by the Federation, on penalty of otherwise being expelled, and forfeiture of all its property. And not it, but the Federation, was to in effect perform the duties and obligations imposed upon defendant by the State when defendant was incorporated. The law forbids all this.

Hence, if the stipulation by virtue of which plaintiffs assert a right in the Federation to defendant's property was in the 1893 charter, it is a nonseverable part of an entire and *ultra vires* contract or agreement, and so unenforceable. Somewhat analogous cases are *Grand Court vs. Court Cavour* (N. J.), 88 Atl. 191; (s. c.), 91 Atl. 1068; *Goodman vs. Lodge No. 7* (Md.), 9 Atl. 13; *Lodge No. 299 vs. Ellsworth* (Cal.), 20 Pac. 399.

(2) To complete the case, however, it is found that the evidence is insufficient to establish that said stipulation was in the 1893 charter. Without reciting all the evidence, it is in conflict, and the preponderance of it in quantity and quality, taken as a whole, is not with plaintiffs. The delegates forming the Federation met in defendant's hall, and the evidence is persuasive that after they adopted a form of charter, at a meeting of defendant the stipulation in question was objected to, and a form without it was printed by order of defendant and issued [242] to it by the Federation. This is supported by testi-

mony of both parties that the charter of 1893 was not a duplicate of other charters then issued, but contained an honor roll of certain of defendant's members, which differentiated it from the other charters, and of which the Aspen charter, issued amongst the first is in evidence. Further support is found in the likelihood that defendant, the inspiration of the Federation, the only owner of property of consequence, probably of ability to stand alone, and always the mainstay of the Federation, would not hazard its property upon an experimental Federation, wherein it might be outnumbered, and that the other unions desirous of its alliance would yield the point.

This, too, might account for the fact that defendant's charter was of date May 15, 1893, though the first charters printed by the Federation were ordered May 20, 1893, and the price fixed and the unions given numbers apparently for charters on June 16, 1893, which is also the date of the Aspen charter, No. 6. And this might also account for the founding of plaintiffs' suit on the 1914 charter, instead of upon that of 1893. When, in defendant's judgment it was for its interests to withdraw from the Federation, it could of right do so, whether wise or unwise, and without forfeiture of its property.

Decree for defendant.

..

---

Judge.

Filed May 13, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. [243]

That thereafter, the Decree of Court was filed herein, May 15, 1916, as follows, to wit: [244]

*In the District Court of the United States in and for  
the District of Montana.*

No. 33—IN EQUITY.

CHARLES H. MOYER, as Trustee for the WEST-  
ERN FEDERATION OF MINERS, a Vol-  
untary Unincorporated Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, State of Colorado,  
CHARLES H. MOYER, C. E. MAHONEY,  
ERNEST MILLS, THOMAS OWNE, J. E.  
COMMINS, CHARLES POGORELIC,  
YANCO TERZICH, J. C. WILLIAMS,  
C. E. BRIGHT, CHARLES DETRICH,  
WILLIAM BURNS, J. A. HERNDON,  
THOMAS McMANUS, E. G. LOCK,  
JAMES HANLEY, W. T. QUINN,  
PHILIP RYAN, WILLIAM STANLICK,  
GUY E. MILLER, RUFUS BLAYLOCK,  
THOMAS GORMAN, EMANUEL DE MIO,  
L. S. SEXTON, SAMUEL W. MON-  
ROE, WILLIAM DAVIDSON, FRANK  
PHILLIPS, JAMES ROBERTS, JOSEPH  
GORMAN, and M. C. LEAKE, as Members  
of the Western Federation of Miners a Vol-  
untary Unincorporated Association of Per-  
sons With Its Headquarters in the City and  
County of Denver, Colorado,

Plaintiffs,

vs.

THE BUTTE MINERS' UNION, a Corporation,  
Defendant.



## DECREE.

This cause came on to be heard at this term and was argued by counsel, and thereupon, upon consideration thereof, it was ordered, adjudged and decreed as follows, viz.:

That the plaintiffs take nothing by this action;

That the plaintiffs, and each of them, and their servants, agents, representatives, attorneys, employees and all persons acting for them, or either of them, or by their authority, or by the authority of either of them, or in their behalf, or in the behalf of either of them, or under their control, or under the control of either of them, be and they, and each of them, are hereby permanently restrained and enjoined from in any manner interfering with or asserting any claim to, or claiming, any of the property, real, personal or mixed, of the defendant;

That the defendant is hereby adjudged and decreed to be the sole [245] owner of and entitled to the possession of the property described in the bill of complaint of plaintiffs, and described as follows, to wit:

The south fifty (50) feet of lot numbered one (1) and the south fifty (50) feet of lot numbered (2) and the south fifty (50) feet of the east twenty-one (21) feet of lot numbered three (3) all in block numbered eleven (11) of the Butte Townsite, according to the official plat and survey thereof of record in the office of the county clerk and recorder of Silver Bow County, Montana.

A note and mortgage to secure the said note for the sum of twenty-five thousand (\$25,000) dollars, given



by the Lead City Miners' Union, a corporation of the state of South Dakota, to The Butte Miners' Union, the defendant herein. The mortgage securing said note having been heretofore foreclosed and the property of the Lead City Miners' Union in Lead, So. Dakota, having been sold at sheriff's sale under said foreclosure, and having been bought in for and in behalf of the said The Butte Miners' Union, the defendant herein;

All money and certificates of deposit in the Daly Bank and Trust Company of Butte, Montana;

Any and all books, papers, seals and other property.

Dated and done this 15 day of May, 1916.

GEO. M. BOURQUIN,  
Judge.

Title of court and cause. Decree. Filed and entered. May 15, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. [246]

And thereafter, on the 4th day of November, 1916, the Statement of Evidence was filed herein, having been approved by the Judge of said court, the same being as follows, to wit: [247]

**Testimony of Charles E. Mahoney, for Plaintiffs.**

CHARLES E. MAHONEY, one of the plaintiffs herein, called as a witness on behalf of plaintiffs, being duly sworn, testified as follows:

Direct Examination by Mr. GEAGAN.

The WITNESS.—I am the same Charles E. Mahoney who is named as a plaintiff in this Bill of Complaint in this action.

(Testimony of Charles E. Mahoney.)

Q. Where do you reside?

Mr. BREEN.—Just a moment, if your Honor please. At this time the defendants object to the introduction of any testimony whatever in this action upon the ground and for the reason that the action is brought by certain persons as individuals who claim to represent an organization known as the Western Federation of Miners, and the Western Federation of Miners no place appears as a plaintiff in this action, and that the others, Charles H. Moyer, Ernest Mills and C. E. Mahoney would have no interest whatever in the outcome of this action as individuals.

Which objection was by the Court overruled, to which ruling the defendants then and there duly asked for and was allowed an exception.

A. Denver, Colorado.

Q. And what state are you a citizen of?

A. Colorado.

Q. Mr. Mahoney, for whom did you bring this action, [248] this particular action?

Mr. BREEN.—Just a moment. We object to the question at this time as being incompetent and irrelevant for the reason that the membership of this witness or his right to bring the action in a representative capacity has not yet been shown.

Mr. GEAGAN.—It will be shown. We cannot try all our case at once.

Which objection was by the Court overruled, to which ruling the defendant then and there duly asked for and was allowed an exception.

(Testimony of Charles E. Mahoney.)

A. On behalf of myself and all other members of the Western Federation of Miners.

The WITNESS.—I am a member of the Western Federation of Miners, and have been such member since 1888, and was such member during all of the year 1915 and still am. I am vice-president of the organization, and my office is at Denver, Colorado. The offices and headquarters of the Western Federation of Miners is at Denver, Colorado. The Western Federation of Miners is composed of men working in and around the mines, mills and smelters, organized into local unions.

Q. How many of these men are there in the Western Federation of Miners, this organization?

A. There are several thousands of them.

Mr. BREEN.—We object to that as being indefinite. [249]

Which objection was by the Court overruled, to which ruling the defendant then and there asked for and was allowed an exception.

The WITNESS.—There are approximately eleven thousand, and those men reside in the various mining camps throughout the various states of the United States and Canada, and with but very few exceptions they do not do any work but in and about mines, mining ore and such, and being engaged in smelting of minerals. I am acquainted with Mr. Charles H. Moyer and last saw him last Sunday at Denver, Colorado.

Q. Do you know of what state Mr. Moyer is a citizen?

(Testimony of Charles E. Mahoney.)

Mr. BREEN.—Just a moment. We object to that as not being the best evidence. It would be only hearsay.

Which objection was by the Court overruled, to which ruling the defendant then and there duly asked for and was allowed an exception.

A. Yes.

The WITNESS.—He is a citizen of the State of Colorado, and resides at Denver, Colorado. When I am speaking of Mr. Charles H. Moyer, I am speaking of Charles H. Moyer who is the plaintiff in this action. He is the president of the Western Federation of Miners, this organization, and his office is at Denver, Colorado. I am acquainted with Mr. Ernest Mills, and at the present time he is here in the courtroom. [250]

Mr. GEAGAN.—That is all for the present, Mr. Mahoney. It will be necessary to recall Mr. Mahoney later.

Mr. BREEN.—We might shorten this up by examining Mr. Mahoney when you call him later.

(Witness excused.) [251]

### **Testimony of Ernest Mills, for Plaintiff.**

ERNEST MILLS, a witness called on behalf of plaintiff, being duly sworn, testified as follows:

Direct Examination by Mr. HILTON.

The WITNESS.—My name is Ernest Mills, and I reside at Denver, Colorado. I am a citizen of that State. I am acquainted with the organization known as the Western Federation of Miners, and I

(Testimony of Ernest Mills.)

am secretary-treasurer of that organization. It is a labor organization, composed of men working in and around mines, mills, smelters and reduction of ores, and it is not incorporated, but is a volunteer association.

Q. And how large is the organization; what is the number of its membership, approximately?

Mr. BREEN.—Just a moment; we object to this as not being the best evidence, this being the officer who has control of the records, evidently, and he ought to have them with him if he has not.

The COURT.—I think if he has knowledge from the records he may answer, then if you wish to verify that by consulting the records, the privilege will be granted you. Overruled.

To which ruling the defendant then and there duly asked for and was allowed an exception.

A. Several thousand.

The WITNESS.—And residents of different states, and [252] of the British empire. I have been acting as secretary of that organization since the latter part of December, 1907, and was acting as such during the year 1914. During that year, in the latter part of that year, I was acquainted with an organization known as the Butte Miners' Union, which was located at Butte, Montana, and was an incorporated body. During the month of September, 1914, I had business negotiations with the officers of that organization as secretary of the Western Federation of Miners. The document which you now call to my attention I have seen before. It was sent



(Testimony of Ernest Mills.)

I think either to me or to President Moyer. I saw it at the general offices of the Western Federation of Miners, and it was sent by Frank O'Connor, president of the Butte Miners' Union, a corporation, Pat O'Neil, secretary, M. A. Sullivan, James Welch and James J. Ryan, board of directors or trustees.

(Document marked Plaintiffs' Exhibit "A" for identification.)

Mr. HILTON.—We offer this, if the Court please, in evidence. It purports to be an application made by the officers of the local union No. 1, Butte Miners' Union, for the reissuance of a charter, in which they state substantially that at a regular meeting of their organization by due action taken, such a request was resolved upon, and that they now make an application to the parent organization for a charter to take the place of the original charter, it having been lost or destroyed. The application further sets [253] up the fact that it is agreed by them that in the event such request is acceded to that the corporation on their part will conform to all and every of the provisions of such charter if issued, and abide by all the rules and regulations of the Western Federation of Miners; signed with the signature of the officials and attested by the seal. And that by reason of that request, after due and particular action taken, said charter was issued by the secretary-treasurer.

Mr. BREEN.—If your Honor please, we object to this offer on the ground and for the reason that the same shows upon its face that it has been tampered with since its original drawing and it is not the same document that was offered in the District Court of

(Testimony of Ernest Mills.)

the Second Judicial District of the State of Montana, in an action to get control of the same property that is in issue. This amendment that appears here by interlineation and with a different ink, was not in the original document.

The COURT.—For the present the objection will be overruled, and an exception noted.

Document marked Plaintiff's Exhibit "A," and is as follows:

**Plaintiffs' Exhibit "A"—Application for  
Reissuance of Charter.**

To the President of the Western Federation of Miners, Denham Building, Denver, Colorado.

The Butte Miners' Union, a corporation, organized [254] and existing under and by authority of the laws of the State of Montana, at a regular meeting held at the headquarters of the said corporation, 217 North Main St., Butte, Montana, on the 22 day of Sept., 1914, 1914, by a majority vote of its membership present at said meeting passed a resolution directing and instructing its President, Secretary and Board of Directors or Trustees to apply to the Western Federation of Miners for a reissuance of a charter recently lost or destroyed, and said resolution empowered and authorized its aforesaid officers to take all necessary steps and do all necessary things in order to procure said charter.

Now, therefore, we, Frank O'Connor, President, Pat O'Neill, Secretary, and Mike A. Sullivan, James Walsh, James Ryan, Frank Martin, Pat Quigley,

constituting the Board of Directors or Trustees of the said corporation, pursuant to the said resolution and by authority thereof, hereby make application to you for the reissuance of a charter for a local union to be issued to the said corporation, which shall be known as the Butte Miners' Union No. 1, Western Federation of Miners, which shall take the place of its first charter recently lost or destroyed.

It is hereby agreed in the acceptance of the said charter that the aforesaid corporation shall conform to all of its provisions and that the same are fully understood, and to the constitution, by-laws, rules and regulations of the Western Federation of Miners. [255]

IN TESTIMONY WHEREOF, the said corporation has caused this application to be signed by its President, Secretary and Board of Directors or Trustees, and its corporate seal to be attached thereto this 22d day of Sep., 1914.

[Seal]

THE BUTTE MINERS' UNION, a Corporation,

FRANK O. CONNOR,

President.

PAT O. NEILL,

Secretary.

M. A. SULLIVAN,

JAMES WALSH,

JAS. J. RYAN,

Board of Directors or Trustees.

The WITNESS.—Upon the receipt of that application by me as secretary-treasurer of the Western

Federation of Miners, the charter was granted. The application was filed. The document to which you called my attention is a true copy of the charter so granted. After it had been issued it was sent to the secretary of the Butte Miners' Union.

(Document received in evidence, marked Plaintiffs' Exhibit "B," and is as follows:

**Plaintiff's Exhibit "B"—Charter Issued by  
Western Federation of Miners to Butte Miners'  
Union.**

**WESTERN FEDERATION OF MINERS  
Education Independence Organization  
CHARTER.**

KNOW ALL MEN BY THESE PRESENTS, that acting under the authority vested in us by the laws of the above-named organization, [256] we, the undersigned, do hereby grant this Charter to Butte Miners' Union, a Corporation, to be hereafter known and designated as The Butte Miners' Union, No. 1, Western Federation of Miners, TO BE HELD BY THEM AND THEIR SUCCESSORS. And the aforesaid Union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership any person or persons lawfully proposed and elected in accordance with the Constitution, Rules and Regulations of the Western Federation of Miners. It is hereby agreed in the acceptance of this Charter that the aforesaid Union shall conform to the Constitution, Rules and Regulations and in default thereof this Charter may be

(Testimony of Ernest Mills.)

revoked and the union suspended from all rights and benefits according to the laws of the Western Federation of Miners, and, further, it is agreed, that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this Charter, then all property, moneys, books and papers shall become the property of the Western Federation of Miners.

In consideration of the due and faithful performance of the foregoing stipulations the Western Federation of Miners do bind themselves to sustain said union in the exercise of all rights, privileges and benefits as a local union under its protection.

IN WITNESS WHEREOF we have subscribed our names and affixed our Seal of the Western Federation of Miners this [257] Third day of October, 1914. The Butte Miners' Union, organized June 13, 1878. Original W. F. M. Charter, dated May 15, 1893.

[Seal]

CHAS. H. MOYER,

President.

Ernest Mills,

Secretary-Treasurer.

Wealth belongs to the producer thereof.

The WITNESS.—That was forwarded to the Butte Miners' Union at the time it was dated. I am acquainted with the signature of Mr. Lee, and this is Pat Lee's signature. At that time he occupied the office of Secretary-Treasurer of the Butte Miners' Union. I received this letter in due course of mail from Mr. Lee.



Document received in evidence, marked Plaintiffs' Exhibit "C," and is as follows:

**Plaintiffs' Exhibit "C"—Letter, November 24, 1914,  
Lee to Mills.**

Hall of

**BUTTE MINERS' UNION.**

Organized June 13, 1878.

Butte, Mont., Nov. 24th, 1914.

Ernest Mills,

Denver, Colo.

Dear Sir & Bro.

In reply to you concerning the charter we have received it but there is a little dispute about putting it up as some of the members wants a copy of the old charter from Helena Mont.—we have written their but has not heard from the Sec. of State. I suppose he is busy going over the [258] election returns.

Hoping you will excuse me for not answering your litter sooner but have been sick for two weeks.

Fraternally yours,

[Seal]

PAT LEE,

Sec Tres.

Mr. HILTON.—We offer in evidence, if your Honor please, the allegation of the complaint admitted by the answer, "that afterwards, by resolution, the Butte Miners' Union, withdrew from the Western Federation of Miners, on or about the 15th day of June. That the contract evidenced by said application and charter was made in the State of Montana. That on or about said 15th day of June, A. D. 1915, the said corporation, the Butte Miners'

(Testimony of Ernest Mills.)

Union, passed a resolution withdrawing from the Western Federation of Miners and refusing to longer affiliate with the said Western Federation of Miners.” That admission was made. About the 13th day of July, 1915, demand was made upon the said defendant corporation by and on behalf of the plaintiffs, the members of the Western Federation of Miners, that it turn over to and transfer to the Western Federation of Miners, all of the property, money, books, and papers that it owned on the date of the passage of the aforesaid resolution withdrawing from the Western Federation of Miners, refusing longer to affiliate with the Western Federation of Miners; that the said corporation has not turned over to, [259] transferred to, or conveyed to, the Western Federation of Miners, or in any manner or at all put the property which it owned at the time of the passage of the said resolution last mentioned in the hands of, or possession of the said Western Federation of Miners; and that the said corporation defendant still claims to be the owner of all of the property that it was the owner of at the time of the passage of the last-mentioned resolution, and denies that the Western Federation of Miners is the owner of or entitled to the said property, and denies the right of the plaintiffs, the members of the Western Federation of Miners, to the ownership of said property, and refuses to allow them to take or hold said property, and refuses to convey, transfer or deliver said property to the plaintiffs, your ora-

(Testimony of Ernest Mills.)

tors." Those allegations are fully admitted by the answer.

Q. Mr. Mills, pursuant to the terms of that charter which you say was issued to and sent to the Butte Miners' Union No. 1, what has the Western Federation of Miners done since that time, pursuant to the terms of that contract?

A. They have complied with every request, I believe, of the local union in the way of any consideration or assistance.

The WITNESS.—That has consisted of this: They have always taken part in the deliberations of the Western Federation [260] of Miners, and in its conventions and members of the Butte Miners' Union have enjoyed the protection whenever they went out with the organization; been taken in fraternally if they went to the United Mine Workers; they enjoyed the same privileges. The Western Federation of Miners defended suits in South Dakota that were brought against the Butte Miners' Union and the Western Federation of Miners was joined plaintiffs.

Cross-examination by Mr. BREEN.

Q. You say that they complied with every request of this charter, and that they, that we, the Western Federation of Miners, assisted them, and so forth. Is it not a fact that they did nothing of the kind, and that the Western Federation of Miners was practically extinct; is that not a fact?

A. No, sir.

Q. Is it not a fact that the Western Federation of

(Testimony of Ernest Mills.)

Miners was without funds to enable, to send the delegate, Jim Shea, that was elected at the last convention in Denver, to Philadelphia, as a delegate to the American Federation of Labor, and appealed to the Butte Miners' Union to pay the expenses of this delegate, and saying they were broke and unable to do so, and didn't the Butte Miners' Union pay the expenses of Jim Shea from Butte to Philadelphia and return, [261] and never received a cent back?

Mr. HILTON.—If your Honor please, it seems to me that this is objectionable, for it is not competent at this time to go into all of the dealings or of the specific matter that may be embraced in the dealings between these two organizations.

The COURT.—The objection will be overruled. Now, you may answer the question.

A. May I answer it in the way of an explanation?

The COURT.—State whether what he asked you is true or not, and then if there is any explanation—

A. Not in the way Mr. Breen puts it. If I will be allowed to state, it is very customary for a number of local unions where some delegate has not had sufficient funds been levied to attend the convention, for the local union to expend it, and for the Federation to reimburse the local union. It has been done numerous times with the Butte Miners' Union and the Anaconda Union and various others. It is nothing more than an ordinary transaction of business. The Federation was not broke, as I think we could

(Testimony of Ernest Mills.)

bring substantial evidence in the way of finances, to show that without any difficulty.

Q. Did you not write to this defendant Union and state that you were broke, and ask them to send Jim Shea to Philadelphia and pay his expenses?

The COURT.—If you have any such letter the witness is [262] entitled to see it.

Mr. BREEN.—We have if we could find it, but I doubt if those matters, due to the fact that all the files and stuff that were kept—

The COURT.—You may answer if you have a recollection.

A. I have no recollection. Mr. Moyer may have written it, but I don't think I may have done. I would know if I saw the letter.

Q. Don't you know Mr. Meyer sent a telegram in substance to Mr. Shea as I have stated?

Mr. HILTON.—I submit that question would be improper.

The COURT.—Yes. If you have such a telegram, produce it.

Mr. BREEN.—As I stated before, if we can find it we will produce it.

The COURT.—What has become of your files?

Mr. BREEN.—Muckie McDonald's bunch took care of them from the 13th to the 23d, and we have not been able to see them since.

The COURT.—If the witness knows, he may answer. Overruled.

To which ruling of the Court the plaintiffs then



(Testimony of Ernest Mills.)

and there duly asked for and were allowed an exception.

A. This occurrence was after the wrecking of the Butte Miners' Union, and if you have got the letter why, I would know the letter. I believe it is possible that Mr. [263] Moyer might have wired to the secretary of the Butte Miners' Union to advance the delegate funds to proceed to Philadelphia on; it is possible that that might have occurred; I couldn't state from knowledge, but I know it is not unlikely to occur, such a proceeding.

Q. Do you know of your own knowledge whether or not Mr. Moyer requested the local union, defendant here, to pay for him, on behalf of the Federation, the sum of One Hundred Thirty Dollars that he had contracted for guns just prior to the twenty-third day of June, last, and which he was unable to pay for? A. I have absolutely no knowledge.

Mr. GEAGAN.—Just a moment. We submit that such a question is entirely improper and objectionable, and is not within the issues.

The COURT.—The witness has answered that he has no knowledge.

The WITNESS.—I have stated that the Western Federation of Miners was a volunteer association and by that I mean that it is not incorporated in any State or territory. It is an organization in which the members join subject to the approval of the local. They can, under such circumstances, be issued a withdrawal card.